

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No. M-13751 of 2014
Date of Decision: 12.02.2015.**

Prem Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. G.C.Shahpuri, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

None for respondents No. 2 and 3.

Mr. Gautam Kaila, Advocate for
Mr. Rajiv Sharma, Advocate
for respondent Nos. 4 and 5.

.....

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the orders dated 5.3.2014 (Annexure P-3) and 22.3.2014 (Annexure P-4) .

Learned counsel for the petitioner has submitted that the FIR in question was registered at the instance of the father of the petitioner. Charges were framed against the accused on 17.2.2011. Father of the petitioner had died on 22.3.2008. Petitioner was not aware of the proceedings before the Trial Court. When the petitioner made enquiries, he came to know that the evidence of the prosecution had been closed vide order

dated 5.3.2014. Thereafter, the petitioner moved an application under Section 311 Cr.P.C. for permission to examine the witnesses. However, the said application was dismissed by the Trial Court vide order dated 22.3.2014 (Annexure P-4). In fact, on many occasions, accused had absented and the case was adjourned on account of absence of the accused and proceedings under Section 446 Cr.P.C., were initiated. Learned counsel for the petitioner has further submitted that two effective opportunities be granted to the prosecution to conclude its evidence.

Learned counsel for respondents No. 4 and 5, on the other hand, has opposed the petition.

In the present case, FIR was registered against the accused at the instance of father of the petitioner on the allegations that accused had prepared a forged agreement to sell. A perusal of the interim orders placed on record reveal that on some occasions, accused had sought exemption of their personal appearance and on 12.7.2012, accused Naresh and Bhajan had absented and proceedings under Section 446 Cr.P.C., were initiated and vide order dated 6.8.2012, accused deposited the penalty amount. Although, prosecution had failed to conclude its evidence despite opportunity, but in the interest of justice, it would be just and expedient to grant two effective opportunities to the prosecution to lead its evidence. Accused will not suffer any prejudice as they will get an opportunity to cross-examine the witnesses.

Accordingly, this petition is allowed. Impugned order dated 5.3.2014 (Annexure P-3) is set aside. Trial Court is

directed to grant two effective opportunities to the prosecution to conclude its evidence and, thereafter, the Trial Court shall proceed further with the trial, in accordance with law.

**(SABINA)
JUDGE**

February 12, 2015
Gurpreet