

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-14207-2015

Date of decision : 01.05.2015

Jagmohan

.....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Sunny Bhardwaj, Advocate for petitioner.

DARSHAN SINGH, J.

The present petition has been filed for quashing/setting aside order dated 15.04.2015 passed by the learned Sub Divisional Judicial Magistrate, Hansi, whereby prosecution has been granted another opportunity to produce prosecution witness Dr. Ramesh Kumar.

2- As per the prosecution allegations, respondent No.2 complainant Arvind Kummat Bharti has lodge a complaint with the police against the petitioner and two others on the basis of which the case FIR No.123 dated 17.04.2007, Police Station City Hansi was registered under

Sections 323, 325 and 506 of the Indian Penal Code, 1860 and they are facing the trial therein.

3- Learned counsel for the petitioner pleaded that the prosecution was granted one opportunity to examine Dr. Ramesh Kumar as a witness by this Court in CRM-M-34937-2013 titled Arvind Kumar Bharti Vs. State of Haryana and others, but the learned trial Court vide the impugned order dated 15.04.2015, instead of closing the evidence of the prosecution, has further granted an opportunity to produce that witness, which is illegal and in violation of the order dated 09.02.2015 passed by this Court in the aforesaid Criminal Miscellaneous.

4- I have duly considered the aforesaid contentions but I do not find any substance therein.

5- The perusal of the impugned order dated 15.04.2015 passed by the learned S.D.J.M., Hansi shows that Dr. Ramesh was duly served with the summons but he did not appear despite the service of the summons and was ordered to be summoned through bailable warrant in the sum of Rs.5000/- with one surety in the like amount for 02.05.2015. The learned trial Court has categorically mentioned in the impugned order that although this Court has given only one opportunity to the complainant however, the complainant has got the service of the witness effected and the witness had failed to appear, therefore, considering this fact that service has been got effected, one more opportunity has been granted. There is nothing wrong in the action of the learned trial Court. When a witness does not appear despite service of the summons, it

becomes the duty of the Court to procure his presence by using coercive methods. So, I do not find that learned trial Court has violated the order of this Court dated 09.02.2015 passed in CRM-M-34937-2013.

6- Consequently, there is no legal infirmity in the impugned order to invite the exercise of extra ordinary jurisdiction under Section 482 Cr.P.C. by this Court.

7- Thus, the present petition is hereby dismissed.

01.05.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**