

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

CRM-M-15070 of 2014 (O&M)

Date of Decision: August 27, 2015

Dr.S.M.Nehra

....Petitioner

Versus

State of UT, Chandigarh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr.J.S.Toor, Advocate
for UT., Chandigarh.

Mr.Amrit Paul, Advocate
for respondent No.2.

Rajan Gupta, J (Oral)

Challenge in the present petition is to orders dated 11.12.2013 and 16.4.2014 Annexures P/2 & P/5 whereby plea of the petitioner to be recalled for cross examination has been rejected.

It appears that a case was instituted under Section 353 and 506 IPC. Complainant alleged that certain persons had entered into his office and abused. They intimidated the staff as well. During the pendency of trial, several opportunities were granted for concluding the prosecution evidence. As complainant did not step into the witness box for cross examination, evidence was closed by order Annexure P/2.

Instant application under Section 311 Cr.P.C for recalling the complainant was moved thereafter. However, same was dismissed vide order dated 16.4.2014. It was observed that complainant had failed to take

any interest in the prosecution case. Despite repeated summons, he failed to be present in court for being cross examined. Counsel for the petitioner emphatically submitted that petitioner was suffering from serious disease and was hospitalised. He had also undergone a major surgery.

Prayer made by counsel for the petitioner is not seriously opposed by learned State counsel.

In view of above, orders Annexures P/2 & P/5 are hereby set-aside. It is directed that petitioner shall be granted one opportunity to appear in the court to be cross examined by the defence. However, this shall be subject to Rs.15,000/- as costs. Same be remitted to the accused.

Petition is allowed in the above terms.

(Rajan Gupta)
Judge

August 27, 2015
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