

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

CRM-M-1823-2015 (O&M)
Date of decision : 19.01.2015

Suresh

...Petitioner

Versus

Shyam Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. A.K. Sehrawat, Advocate,
for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The petitioner-complainant is aggrieved against closing of prosecution evidence vide order dated 19.12.2014, passed by the learned Judicial Magistrate 1st Class-cum-Civil Judge (Jr. Divn.), Rohtak, Annexure P-2, and order dated 03.01.20915, passed by the learned Sessions Judge, Rohtak, (Annexure P-1) whereby, the revision petition filed by the petitioner against order Annexure P-2, has been dismissed.

It is contended that only two opportunities were granted to the prosecution for examination of the Investigating Officer. Despite the best efforts of the petitioner, the Investigating Officer could not attend the Court proceedings and the evidence of the prosecution was closed by order. The examination of the Investigating Officer, being a

material witness, is essential to the success of the case and will have material bearing on the issue under adjudication.

Heard.

A perusal of the case file shoes that without the examination of the Investigating Officer, the case of the prosecution cannot succeed. There is nothing on record to show that the petitioner is not vigilant in pursuing his case. Thus, the Court ought to have adopted coercive methods to secure presence of the Investigating Officer, who is a material witness in the present case. The case of the petitioner must not fail on this count.

In view of the above, without commenting on the merits of the case, this petition is allowed and impugned orders Annexure, P-1 and P-2, are set aside. The prosecution is granted one more opportunity to produce SI Ishwar Singh, the Investigating Officer, on the date to be fixed by the trial Court, subject to deposit of Rs.5,000/- as cost, by the petitioner with the Chairman, District Legal Services Authority. If the witness still does not appear, the Court will be at liberty to proceed against the witness under Section 350 Cr.P.C.

19.01.2015
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(JITENDRA CHAUHAN)
JUDGE