

**CRM No. M-24711 of 2015
DECIDED ON: JULY 29, 2015**

DALWINDER SINGH PADAM

.....PETITIONER

VERSUS

STATE OF PUNJAB & ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Instant petition has been preferred under Section 482 Cr.P.C. seeking quashing of order dated April 04, 2015 passed by learned SDJM, Nakodar whereby, evidence of prosecution has been closed by order.

2. A perusal of file reveals that ASI Gurmeet Singh was served as a witness to appear in Court on February 16, 2015 throughailable warrants to the tune of ₹5000/- alongwith remaining PW's but despite that fact he failed to appear. On April 04, 2015, evidence of prosecution was closed by order and the case was listed for May 02, 2015 for recording the statement of accused under Section 313 Cr.P.C. observing that prosecution has already availed numerous effective opportunities to conclude its evidence. But trial Court failed to appreciate that ASI Gurmeet Singh, who was summoned throughailable warrants, was not present. His presence was required to be secured by trial Court by adopting coercive methods. Instead of taking such a step, it closed its evidence.

3. The mere fact that prosecution has availed numerous effective opportunities to conclude its evidence including four last opportunities over a

period of four years does not *ipso-facto* mean that trial Court should not adopt a coercive method to secure the presence of a witness especially when Investigating Officer was summoned to appear as a witness throughailable warrants.

4. Taking into consideration all these above-referred facts and circumstances, this Court is of the considered view that issuance of notice to respondent No.2 would certainly delay the disposal of trial. But at the same time, this Court is of the considered view that it would be nothing but wastage of time as well as money of respondent No.2.

5. Accordingly, instant petition is allowed and order dated 04.04.2015 is set aside in the absence of respondent No.2 trial Court is directed to proceed with the case to examine Investigating Officer after securing his presence.

6. However, if respondent No.2 still feels aggrieved qua the order passed by this Court, she shall have liberty to approach this Court.

JULY 29, 2015
SHAM

(JASPAL SINGH)
JUDGE