

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

CRM-M-27703 of 2015.

Decided on:-August 20, 2015.

Ajay Puri.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner, namely, Ajay Puri son of Shri Jugal Kishore has filed the present petition under Section 482 Cr.PC seeking quashing of order dated 1.8.2015 passed by the Judicial Magistrate 1st Class, Nakodar in criminal Case No.10/1/10 dated 18.1.2011 titled "State Versus Kuldeep Goyal" whereby the trial Court has closed the prosecution evidence.

Briefly stated, the facts of the case are that an FIR No.268 was registered against respondent No.2 on 27.10.2010 for the offence under Sections 406 and 420 IPC at Police Station Shahkot, District Jalandhar. As per the FIR, the petitioner was a friend of respondent No.2, who was in need of money. Considering his need, the petitioner had advanced Rs.5 lacs to him on 1.11.2009 for a period of three months. The petitioner had paid that

amount after selling his plot. However, respondent No.2 who is a commission agent (Arhtiya) and running a shop in the name and style of M/s Kuldeep Trading Company promised to repay the money after three months. He even issued a receipt of the acknowledgement of the said amount on 1.11.2009. It is on 8.3.2010 when the petitioner visited the shop of respondent No.2 for the recovery of said amount, the respondent No.2 had asked him to show the receipt dated 1.11.2009. However, when the said receipt was shown and handed over to respondent No.2, he had torn off and destroyed the same. Straightway, he flatly refused to return the money. The petitioner was even pushed out by respondent No.2 from his shop.

Feeling aggrieved against respondent No.2, the petitioner made a complaint to the police and on the basis of enquiry so conducted by recording statements of the witnesses, the police found the respondent No.2 guilty and recommended registration of the FIR against him. It is in these facts and circumstances, the aforesaid FIR was registered against respondent No.2 and challan was presented against him. DSP Rajinder Singh, PPS, who has conducted the enquiry was listed as a prosecution witness in the challan. After framing of the charge, the trial Court had fixed the date for prosecution evidence.

I have heard learned counsel for the petitioner and have gone through the paper book.

In the present petition, the petitioner has challenged order dated

1.8.2015 (Annexure P-6) passed by the trial Court which reads as under:

“Present:- APP for the State.

Accused on bail with counsel Sh. Rishu Tandon, Advocate.

No PW is present or served for today despite last opportunity for concluding entire evidence. Ld. APP for the State seeks one more opportunity to conclude the same. Perusal of the file shows that charge against the accused was framed on 3.3.2011 but prosecution has failed to conclude its evidence despite availing about 18 opportunities including last opportunities in this regard. As such, there is no justification to adjourn the case further for evidence of prosecution. Hence, the remaining evidence of prosecution is ordered to be closed by order.

Now to come up on 19.8.2015 for recording statement of accused under Section 313 Cr.P.C. and further proceedings.

*Sd/-
(Geeta Rani) PCS,
JMIC/Nakodar/1.8.15”*

A perusal of the aforesaid order shows that the charge against the accused was framed on 3.3.2011 and the prosecution was awarded as many as 18 opportunities to conclude its evidence including the last opportunities granted by the trial Court. Since despite having availed as many as 18 opportunities including the last opportunities, the prosecution has failed to adduce the prosecution evidence, the trial Court has closed its evidence vide order dated 1.8.2015 and had fixed the case for statement of the accused as provided under Section 313 Cr.P.C.

Considering the fact that the prosecution has been awarded enough opportunities to lead evidence but it has miserably been failed to conclude the same, I find no ground to interfere with the impugned order dated 1.8.2015 passed by the trial Court.

Accordingly, the present petition is dismissed being devoid of any merits.

August 20, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE