

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

**CRM No.M- 34937 of 2013
Date of decision: 09.02.2015**

Arvind Kumar Bharti

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MRS JUSTICE SABINA.

Present: Mr. Pankaj Mehta, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Munish Soni, Advocate
for Mr. S.K. Kaushik, Advocate
for respondent Nos.2 to 4.

SABINA J.

Petitioner has filed this petition under Section 482 of the Criminal Procedure Code, 1973, challenging the order dated 05.10.2013, whereby application moved by the petitioner for summoning Dr. Ramesh Kumar along with necessary record, was dismissed.

Heard.

In the present case, a perusal of the impugned order reveals that Dr. Ramesh Kumar had appeared on three dates but

his statement could not be recorded as he was not having the original record of the medico legal report in question. Thereafter, the Court summoned the Record Keeper who appeared in the Court and had stated that the record of the medico legal report in question had not been deposited with the Record Keeper.

Learned counsel for the petitioner has submitted that one opportunity be granted to the complainant to enable him to summon Dr. Ramesh Kumar as a witness at his own risk and responsibility as the complainant had been informed, on an application moved by him under the Right to Information Act, that the record of the concerned medico legal report had been deposited with the Record Keeper.

Although, FIR in the present case relates to the year 2007, but complainant cannot be made to suffer as the witness now sought to be summoned had appeared before the trial Court but his statement could not be recorded as he was not in the possession of the original record. In case Dr. Ramesh Kumar is allowed to be examined as a witness, the trial Court would be able to dispose of the trial in a more just and fair manner. Moreover, the accused will not suffer any prejudice as they will get an opportunity to cross-examine the witness.

In the facts and circumstances of the present case, it would be just and expedient to grant one opportunity to the prosecution/complainant to examine Dr. Ramesh Kumar as a

witness at his own risk and responsibility.

Accordingly, the impugned order dated 05.10.2013, is set-aside and the trial Court is directed to grant one opportunity to the prosecution/complainant to examine Dr. Ramesh Kumar, at its/his own risk and responsibility and thereafter the trial Court shall proceed further with the trial in accordance with law.

(SABINA)
JUDGE

09.02.2015

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