

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-33804 of 2014 (O&M)

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Date of decision:16.1.2015

Smt. Rajesh

...Petitioner

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh.

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Present: Mr. Rakesh Nehra, Advocate for the petitioner.

Mr. Deepak Grewal, learned Deputy Advocate General,
Haryana for the respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 3.7.2014 passed by learned Judicial Magistrate Ist Class, Jhajjar and impugned order dated 19.9.2014 passed by learned Additional Sessions Judge, Jhajjar, whereby the prosecution evidence has been ordered to be closed despite the fact that two witnesses i.e. Investigating Officer and concerned Doctor are yet to be examined.

Notice of motion has been issued in this case.

Mr. Deepak Grewal, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned Deputy Advocate General, Haryana appearing for the respondent-State and have gone through the record, specially the zimini orders placed on the record.

From the record, I find that FIR No.300 has been registered on 6.6.2009 for the offences under Sections 323, 452, 506 and 34 IPC at Police Station Jhajjar, District Jhajjar. The learned Judicial Magistrate Ist Class, Jhajjar, vide order dated 3.7.2014 held that no PW is present despite granting of nine effective opportunities including three last opportunities. Adjournment sought by learned APP for the State. It has been recorded in the order that the case relates to the year 2009 and Action Plan 2014-15. Hence, no further grounds are made out to adjourn the matter for prosecution evidence. Therefore, the prosecution evidence was closed by order and statement under Section 313 Cr.P.C. was recorded.

The present petitioner filed the revision petition before the learned Additional Sessions Judge, Jhajjar, who had dismissed the same vide order dated 19.9.2014.

As the order to close the evidence is an interlocutory order, no revision is maintainable, rather, the petition under Section 482 Cr.P.C. is maintainable. Therefore, now this petition has been filed under Section 482 Cr.P.C. before this Court.

A perusal of the record shows that FIR is only for the offences under Sections 323, 452, 506 and 34 IPC, which are not serious offences. The FIR has been registered in the year 2009 and the case is

still going on even after five years. The evidence of the prosecution has been closed on 3.7.2014 after five years of the registration of the FIR. Though, the evidence started in this case after the decision of the application filed under Section 319 Cr.P.C. etc., but even then as per the order of the learned Judicial Magistrate Ist Class, Jhajjar, nine clear opportunities have already been granted including three last opportunities and declined further adjournments.

Keeping in view the facts and circumstances of the present case, I do not find that any illegality has been committed by the Courts below while closing the evidence of the prosecution and declining further adjournments. Even a perusal of zimini orders shows that the Investigating Officer has not come present. The evidence of the doctor is also of not much value as the FIR is for the offence under Section 323 IPC etc. The complainant, injured and the eye witness have to prove the occurrence.

Therefore, from the above, I do not find that any illegality has been committed by the Courts below while passing the impugned orders.

Therefore, finding no merit in the present petition, the same is dismissed.

January 16, 2015.

(Inderjit Singh)
Judge

hsp