

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-41003-2015

Date of decision: December 17, 2015

Swaran Singh & others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Navjot Singh, Advocate for the petitioners.

Ms. Rajni Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.

Petitioner has impugned order dated 17.10.2015, passed by Additional Sessions Judge, Sangrur, whereby revision petition filed by State against order dated 25.5.2015, passed by Judicial Magistrate 1st Class, Malerkotla has been allowed, granting one effective opportunity to the prosecution to conclude its evidence.

Learned counsel for the petitioners submits that the revisional court has erred in passing the order in question, as lacuna cannot be permitted to be filled by way of additional evidence by invoking provisions of section 311 Cr.P.C.

Plea has been opposed by the State counsel. She submits that the revisional court has rightly granted one opportunity to the prosecution, as service of the alleged witness could not be effected before the trial court.

I have heard learned counsel for the parties and given careful

thought to the facts of the case.

Case was registered under sections 420, 467, 468, 471 and 120-B IPC at Police Station Ahmedgarh, vide FIR No.71 dated 20.5.2010. During pendency of trial, earlier an application filed by the prosecution under section 311 Cr.P.C. for re-examination of PW Jagdev Singh Patwari was allowed and the said Patwari was summoned for 25.5.2015, but the summons were received back with the report that said Patwari had gone to Hazoor Sahib for pilgrimage and service could not be effected. The trial court then closed evidence of the prosecution. State filed revision petition which was allowed by the Additional Sessions Judge, granting one effective opportunity to the prosecution to conclude its evidence.

I find no legal infirmity with the impugned order passed by the revisional court. Petitioners have been charged with serious crime, therefore, prosecution is entitled to reasonable opportunity to prove its case. Revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 17, 2015
'Rajpal'