

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

Crl. Revision No. 2297 of 2015 (O&M)

Date of Decision: 07.07.2015

Kartar Singh & Ors.

.. Petitioners

Vs.

State of Punjab & Ors.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. R.S. Bains, Advocate
for the petitioner.**

ANITA CHAUDHRY, J.

Crl. Misc. No. 20706 of 2015 is allowed and copies of zimni orders are taken on record.

The instant revision petition has been preferred against the order dated 01.06.2005 passed by Additional Sessions Judge, Patiala vide which the evidence of the prosecution has been closed by order.

A clash is said to have taken place on 21.09.2007 between the petitioners and private respondents. FIR No. 209 dated 21.09.2007 was registered against the petitioners and others under Sections 302, 307, 148 and 149 IPC and Section 25 of Arms Act at Police Station Civil Lines, Patiala.

Petitioner No.1 Kartar Singh also filed a criminal complaint against the private respondents under Sections 307, 323, 324, 325 and 149 IPC, in which they were

summoned and are facing trial.

Petitioner No.1 is the complainant whereas petitioners No.2 and 3 are the injured. Their grievance is that their evidence has been closed by the Court when witnesses remain to be examined and are crucial for the just decision of the case.

The perusal of paper-book reveals that when the complaint was filed, none of the doctors sought to be summoned were named. None of them were examined at the pre-summoning stage. Charge was framed in the year 2012. The zimnis reveal that earlier an application was filed for summoning Harbant Likhari and concerned doctors and radiologist who had examined the injured. The names were not provided. That application was allowed only with respect to Harbant Likhari. The complainant filed another application under Section 311 Cr.P.C., seeking permission to summon eight doctors and technicians, namely, Dr. Amit Gupta, Dr. Sonika, Dr. Sunandan Sood, Dr. Mukesh Goyal, Dr. Varinder Saini, Dr. Shishir Pareek, Dr. Ravi K Gupta and Dr.Saloni, as witnesses. Vide order dated 30.01.2015 the application was allowed. During this period, the complainant examined three witnesses, directions were issued all along by the trial Court to take appropriate steps to get the witnesses served. On 24.03.2015 last opportunity was granted to the prosecution

to conclude its evidence and the case was adjourned to 26.03.2015, 16.04.2015, 7.5.2015, 16.05.2015 and then to 1.6.2015 for evidence of the prosecution. Still, the evidence was not concluded. Even no attempt was made by the complainant to examine Harbant Likhari, a private witnesses who was allowed to be summoned vide order dated 05.01.2015. The grouse of the petitioner is that witnesses, namely, Dr. Umesh Sharma, Dr. Vineet Sethia, Dr. Shishir Parek and Mrs. Saloni, whose examination was important, remain to be examined.

Perusal of zimnis reveals that vide order dated 11.10.2012 Dr. Vaneet Setia and Dr. Umesh Sharma were ordered to be summoned. On 06.12.2012 it was reported on their summons that they had left the job from the address mentioned on their summons. On 10.01.2013 it was ordered that they be again summoned through special messenger on furnishing their correct addresses. Thereafter, no attempt was made by the petitioner to furnish their correct addresses. The record sought to be proved by these witnesses, was not summoned. Perusal of zimnis also reveal that earlier also the petitioner summoned the doctor, but without calling for the record which was sought to be proved by them. The record was available in the institutions where they had earlier worked/ posted. In absence of record it was

a futile exercise to summon the doctor. So far as witnesses, namely Saloni and Dr. Shishir Pareek, are concerned, perusal of impugned order dated 01.06.2015 reveals that the x-ray report of Ms. Saloni had already been exhibited on record by examining another doctor. The document has been exhibited with no objection. The medico legal summary of Kartar Singh sought to be proved from Dr. Shishir Pareek had been got exhibited from other doctors. The complainant has been negligent. The trial Court rightly closed the prosecution evidence. No ground for interference is made out. The petition is dismissed.

July 07, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE