

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

**CR No. 3901 of 2015
Date of decision: 29.03.2016**

Kishan Chand

..Petitioner

Vs.

Avinash Kumar and Ors.

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. A. K. Goel, Advocate for the petitioner.
Mr. Ankur Soni, Advocate for respondents No. 1 and 2.

SHEKHER DHAWAN, J.(ORAL)

The present petition is challenge to the order dated 12.05.2015 whereby evidence of defendant-petitioner was closed by Court order despite the fact that official witness Gurdev Singh who was bound down vide order dated 18.4.2015 for that date was not present. Learned counsel for the petitioner submitted that if Gurdev Singh had not produced the relevant record, the Court might have issued any directions to the official witness and there was nothing to be done on the part of the present petitioner.

Learned counsel for the respondent submitted that Gurdev Singh had put in appearance as official witness on different dates prior to 12.05.2015 but he was sent back merely taking the plea that some of the record was not brought by him and there was no illegality in the order dated 12.05.2015 passed by the court below and present petition be dismissed.

Having considered into its entirety this court is of the view that if Gurdev Singh, official witness has not come present on the date

fixed by the Court below despite having been bound down, it was the duty of the court to procure the presence of the said witness and there was no fault on the part of petitioner for non production of summoned record or otherwise. It was for the court below to take any action against Gurdev Singh or may issue any direction to Gurdev Singh in accordance with law but evidence of the petitioner could not be closed on the date fixed i.e. 12.05.2015. Accordingly, order dated 12.05.2015 is set aside and defendant is given one opportunity to conclude his evidence including examination of petitioner himself and examination of Gurdev Singh, official witness in this case. The Court below shall decide the steps to be taken for procuring presence of Gurdev Singh and production of relevant record by him.

The present petition is disposed of.

March 29, 2016

Poonam (II)

**(SHEKHER DHAWAN)
JUDGE**