

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No.M-13262 of 2014

Date of decision: January 07, 2016.

Harpal Singh

... **Petitioner**

v.

State of Punjab and others

... **Respondent**

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Amandeep Singh Cheema, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Punjab.

Mr. Navkiran Singh, Advocate for respondent No.2.

Mr. M.S. Uppal, Advocate for respondent No.3.

None for respondents No.4 to 6.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Impugned in the present petition is the order dated 7.4.2014 (Anexure P-1) passed by learned Additional Sessions Judge, Mansa affirming order dated 19.2.2014 passed by the learned Chief Judicial Magistrate, Mansa vide which evidence of the prosecution was closed by order.

It comes out that previously application was filed by the State under Section 311 Cr.P.C. and on the said application, two opportunities were granted by learned Chief Judicial Magistrate to the prosecution to lead its evidence. On the second effective opportunity, HRC, DC Mansa was

present and was examined. On the said date, the complainant was also present and the APP for the State wanted to examine him. The prayer of the APP was strongly opposed by the defence. The request of the prosecution was ultimately declined.

I have heard learned Counsel for the parties.

On behalf of the State, it has been informed by learned Counsel for the State, on instructions from HC Ram Dhan, that the complainant has not been examined in this case. It also comes out that on the date when the impugned order was passed, the complainant was present. He was cited as a witness. Therefore, the lower court had committed error in refusing the examination of the complainant. When the witness is present and ready for examination, the learned Chief Judicial Magistrate should not have closed the evidence and rather should have examined the said witness. On the said date, the second opportunity was already in force and it should not have been restricted to the examination of HRC, DC Mansa only. Therefore, the impugned order is set aside. Chief Judicial Magistrate, Mansa is directed to examine the complainant, if he is already not examined and thereafter proceed in accordance with law.

The complainant through counsel is directed to put in appearance before the lower court on 11.1.2016 (the date fixed in the lower court) for examination. No further opportunity will be given.

It is pointed out that the case has already become seven years old. Therefore, the lower court is directed to expedite the disposal of the case.

Copy of this order be given dasti to the parties and also sent to the lower court.

January 07, 2016.
kadyan

[Kuldip Singh]
Judge