

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-15705 of 2016 (O&M)**
Date of Decision: May 09, 2016

Najirdeen

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Vineet Chaudhary, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent for setting aside the order dated 28.04.2016 passed by learned Judicial Magistrate Ist Class, Naraingarh, vide which the application under Section 311 Cr.P.C. for additional evidence filed by the petitioner-complainant has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

As per the impugned order dated 28.04.2016, the prosecution has been granted 27 opportunities to conclude its evidence but the prosecution failed to conclude the evidence. Therefore, learned Magistrate on 19.02.2016, closed the evidence of the prosecution by order of the Court and statement of the accused

under Section 313 Cr.P.C. was recorded and case was fixed for 05.03.2016 for defence evidence. It is also in the order of the learned Magistrate that case pertains to the year 2011. Otherwise also, the FIR was registered under Sections 325, 323, 34 and 506 IPC. On 05.03.2016, when the case was fixed for defence evidence, another application was filed for granting opportunity to the prosecution, which was allowed vide order dated 09.03.2016 and only one opportunity was granted to the prosecution and case was adjourned 17.03.2016. On that day, prosecution examined one witness and the case was adjourned for recording statement of the accused under Section 313 Cr.P.C. After that, the application under Section 311 Cr.P.C. was filed for cross-examination of Head Constable Manoj Kumar and examination of Dr.Anil Jain.

The perusal of the record shows that already 27 opportunities were given to the prosecution to complete the evidence since the year 2011. Even after closure of the evidence by order, the Court has given one more opportunity to the prosecution to conclude evidence, even then the prosecution failed to conclude its evidence. The prosecution cannot harass the accused for years together by not producing the evidence. No reason or ground has been mentioned as to why the prosecution could not complete evidence in such type of case for years together.

Learned counsel for the petitioner cited judgment passed by the Hon'ble Supreme Court in ***Manohar Prajapat vs. State of Madhya Pradesh, 2014(6) RCR (Criminal) 163.*** I have gone through

this cited judgment and the same having distinguished facts will not apply in the present case as in that case accused sought summoning of nine witnesses and the Court allowed only one month's time and the accused has pleaded the defence of alibi and wanted to examine some more witnesses and examined only three witnesses during one month, which are not the facts of the present case.

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

May 09, 2016
Vgulati

(INDERJIT SINGH)
JUDGE