

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

**CRM No.28271 of 2016 in/and
CRM No.M-17844 of 2016 (O&M)
Date of decision: September 19, 2016**

Jatinder Singh and another

...Petitioners

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

Mr.J.S.Toor, Addl. Public Prosecutor,
for the respondent-U.T. Chandigarh.

INDERJIT SINGH, J.

CRM No.28271 of 2016

This is an application under Section 482 Cr.P.C. for preponing
the date in the main case.

Heard.

For the reasons mentioned in the application, the same is
allowed. The hearing of the main case, which is fixed for 30.11.2016, is
preponed and the same is taken up for hearing today itself.

CRM No.M-17844 of 2016

Petitioners have filed this petition under Section 482 Cr.P.C.
against respondent U.T. Chandigarh, for setting aside the order dated
06.05.2016 passed by learned Addl. Sessions Judge, Chandigarh in case FIR

No.390 dated 16.09.2014 under Sections 302 and 34 IPC registered at Police Station Sector-11, Chandigarh, whereby the application under Section 311 Cr.P.C. filed by the petitioner for summoning Mansa Ram as Court witness has been dismissed.

Notice of motion was issued and learned Addl. Public Prosecutor for the respondent-U.T. Chandigarh appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned Addl. Public Prosecutor and have gone through the record.

From the record, I find that Mansa Ram has not been cited as a witness in the above-said FIR. No statement of Mansa Ram under Section 161 Cr.P.C. has been placed before the Court along with final report under Section 173 Cr.P.C.

Learned counsel for the petitioners has relied upon the statement of the Investigating Officer, who in the cross-examination has stated that he has recorded the statement of Mansa Ram, which is not on the file. But the petitioners have not filed any application before the trial Court for production of the statement of Mansa Ram under Section 161 Cr.P.C., if any. Learned counsel for the petitioners has also argued that Mansa Ram is an eye witness to the occurrence.

Learned Addl. Sessions Judge, Chandigarh, has correctly held that the Court cannot ask a party to examine any specific witness. It is for the prosecution to produce any witness which it wants. Similarly, it is for the accused to examine any witness, which he/she wants to get examined.

The petitioners do not want to examine Mansa Ram as defence witness but

only want to cross-examine him and requested that this witness may be

called as Court witness only, so that the petitioners, who are accused, can cross-examine him.

Firstly, there is no reason or ground that the Court should summon Mansa Ram as a Court witness. Secondly, there is nothing, at this stage, before the Court to show that Mansa Ram is eye witness in this case. Thirdly, the Court is not to collect the evidence on behalf of any of the party at the time of trial. If the petitioners/accused want to examine this witness as their defence, they can file appropriate application and the trial Court will decide the same as per law.

In view of the above discussion, I find that the impugned order dated 06.05.2016 passed by learned Addl. Sessions Judge, Chandigarh, is correct, as per law and does not require any interference from this Court.

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

September 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No