

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

1. CRM-M-20561-2015

Sanjeev Kumar Aggarwal

.....Petitioner

Versus

Jai Singh

.....Respondent

2. CRM-M-20548-2015

Sanjeev Kumar Aggarwal

.....Petitioner

Versus

Jai Singh

.....Respondent

Date of Decision : 26.02.2016

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. **Whether reporters of local newspaper may be allowed to see judgment?**
2. **To be referred to reporters or not?**
3. **Whether the judgment should be reported in the digest?**

Present : Mr. Jatinder Pal Singh, Advocate
for the petitioner.

Mr. H.K. Aurora, Advocate
for the respondent.

FATEH DEEP SINGH, J.

Since, the above detailed two petitions (CRM-M-20561-2015 and CRM-M-20548-2015) relate to same question of law with common facts and being in respect of same very parties over similar dispute are thus, for the sake of brevity being decided together.

The short point that has come to be raised during the course of arguments of the two sides in these petitions filed under Section 482 Cr.P.C. whereby the accused/petitioner-Sanjeev Kumar Aggarwal has challenged an order dated 11th May, 2015 passed by the learned Judicial Magistrate 1st Class, Jalandhar as to its legality made in two separate Criminal Complaints bearing No.28530 (registered case No.31213 of 2013) and No.28531 (registered case No.31176 of 2013) both instituted on 15.12.2012 titled as **“Jai Singh Vs. Sanjeev Kumar Aggarwal and another”** whereby the learned trial Court through the impugned order has closed the defence of the petitioner.

Undisputedly, as is evident from the records and is seemingly not disputed that consequent upon closure of the evidence of the complainant on 5th March, 2015 the matters were listed for defence evidence with the directions to the accused to submit list of the defence witnesses to be examined, furthermore, not put to dispute the petitioner/accused to support his defence had filed only list of a single witness that he wanted to examine in his defence. What perplexes this Court is that in spite of the same, adjournments have been sought on one pretext or the other, though, not wholly attributable to the accused side but at the same time nothing tangible is evident that there had been sincere and *bona fide* efforts by the petitioner to complete his defence. What furthermore is astonishing as revealed is that right in the first order dated 5th March, 2015 when after the complainant's evidence was closed and statement of the accused under Section 313 Cr.P.C. was recorded

and the matters were slated for defence evidence, the learned trial Court had passed the following orders :-

“....Now to come up on 18.03.2015 for Dws if any, and for arguments.”

Which in itself is suggestive of the undue haste with which the learned Court below is trying to proceed ahead into the matters, quite in oblivion to the rights of the defence and duties of the Courts towards its dispensation. Though, this Court does not intends to give legitimacy to the casual approach of the defence in completing with its evidence but having regard to the fact that even learned Magistrate failed to act into the matters in the right earnest as it was within its powers in terms of Chapter VI Cr.P.C. to have issued bailable or non-bailable warrants as the case may be to compel the appearance of the witness so sought to be examined, however, the entire proceedings reflect the inability of the Court to resort to such a means. Though, it is the duty of the defence to ensure examination of its witnesses so relied but at the same time it is also the duty of the Courts to effect service upon the witnesses as per its powers.

The Courts in their endeavor to do justice to the parties needs to avoid resorting to such a harsh measure, else it would be not only prejudicial to the interest of the accused and would also tantamount to circumvention of the rule of law. In the totality of what has come up before this Court, it would sub-serve the ends of justice if one more opportunity is allowed to the defence to complete its evidence before the trial Court, however, the same is subject to

payment of Rs.5,000/- as costs before the trial Court within 15 days from issuance of this order, in each case, which shall be a pre-condition, and consequent thereupon, the trial Court shall comply with this order by affording one opportunity.

With these observations the instant petitions stand disposed off.

February 26, 2016
Dpr

(FATEH DEEP SINGH)
JUDGE