

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-20712 of 2015(O&M)****Date of Decision: April 05, 2016**

Paramjit Singh

...Petitioner

VERSUS

Anil Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Damanbir Singh Sobti, Advocate
for the petitioner.

Mr.A.A.Pathak, Advocate
for the respondents.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents Anil Kumar and Rekha Gupta, challenging the order dated 12.06.2015 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which the application under Section 311 Cr.P.C. was dismissed.

Notice of motion was issued and learned counsel for the respondents appeared and contested the petition.

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

From the record, I find that application under Section 311 Cr.P.C. was filed on behalf of the prosecution for leading additional evidence. It is stated in the application that evidence of the

prosecution has been closed by order whereas cross-examination of the complainant was deferred on request of the accused, as they wanted to file an application for secondary evidence but no such application was filed and evidence was closed.

Learned JMIC, Ludhiana, vide order dated 12.06.2015, after hearing both the sides and after taking reply, dismissed the application.

I have gone through the impugned order dated 12.06.2015 and find that the impugned order passed by learned JMIC, Ludhiana is correct, as per law and no illegality has been committed. As per the impugned order, the challan was presented in February 2005 and since then, the accused are facing trial. Further, it is in the order that reasonable opportunities were given to the prosecution to produce and complete the evidence. The charge was framed in this case on 15.04.2005 and evidence has been closed on 10.01.2013. In this case, as argued, charges have been framed under Sections 420 and 506 IPC only. As per the impugned order, earlier also, application under Section 311 Cr.P.C. was filed by one Harcharan Singh, which was dismissed by the Court on 20.05.2015. It is mentioned in the order that cross-examination of the complainant was deferred on 10.11.2008 for just one date i.e. for 13.02.2009 on the request of learned defence counsel that he wants to move an application for secondary evidence. Learned defence counsel did not move any such application for secondary evidence during the trial but that does not mean that complainant will keep on waiting for moving of such an

application. The Court also discussed that vide orders dated 27.09.2010, 11.11.2010, 09.02.2011, 21.03.2011 and 14.12.2012 learned APP for the State was intimated regarding this matter and directed to get issuance of summons under his/her personal supervision but no effort was made. Neither the complainant came in the Court himself for about more than four years nor the prosecution has taken any step to get the evidence completed.

The FIR, as already discussed, is of the year 2004 and charges have been framed in the year 2005 and the evidence has been closed by order in the year 2013 and application in question under Section 311 Cr.P.C. has been filed in the year 2015. Even if, it is taken that complainant's cross-examination was deferred on one date in the year 2008, even then, it is no ground for not coming to the Court for years together. The evidence has been closed in the year 2013 but even this application has been filed in the year 2015, which means that the complainant is coming after seven years in the case for leading evidence. The accused cannot be harassed by the prosecution by not producing the evidence for years together.

In view of the above discussion, I find that the impugned order dated 12.06.2015 passed by learned JMIC, Ludhiana, is correct, as per evidence and law and does not require any interference from this Court.

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

April 05, 2016

Vgulati

**(INDERJIT SINGH)
JUDGE**