

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

CRM-M- 23221 of 2014

Date of Decision: April 05, 2016.

Jyoti

....Petitioner

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA**

Present: Mr. Naresh Prabhakar, Advocate  
for the petitioner.

Mr.Arun Luthra, AAG, Haryana.

Mr.R.S.Madan, Advocate  
for the complainant.

**Rajan Gupta, J (Oral)**

Present petition is directed against the order passed by Additional Sessions Judge, Sirsa whereby evidence of the prosecution has been closed by order. Order has been assailed on the ground that material witnesses have not been examined by the prosecution. Order was passed even before the material witness namely Jyoti could depose before the court.

Learned State counsel submits that certain prosecution witnesses including the official could not depose before the court. As a result whereof departmental action has been initiated against Inspector-Ravi Khundiya. He has referred to affidavit dated 2.11.2015 of Ms.Sangeeta Kalia, Superintendent of Police, Sirsa. According to same, there was negligence on part of the said Inspector in discharging his duty.

I have heard learned counsel for the parties.

It appears that FIR was lodged on the complaint of Buta Singh. He alleged that he got two sons namely Sukhwinder Singh and Palwinder Singh. On 31.12.2013, Palwinder Singh left the house but did not return. On the basis of the statement, FIR was lodged and investigation ensued. Investigating agency came to the conclusion that elder brother Sukhwinder Singh was responsible for death of Palwinder Singh. It accordingly submitted a challan before the competent court. During trial nineteen witnesses were cited. Seven of them deposed before the court. On 5.7.2014, when the case came up before the trial court, it closed the evidence by order observing that one of the witnesses namely Jyoti had failed to depose despite several opportunities. Certain other material witnesses had turned hostile. Thus, no fruitful purpose would be served by examining the official witnesses. I find the order totally unsustainable. The prosecution ought to have been allowed to complete its evidence. Affidavit of SSP is already on record that official of the police department acted totally negligently when assigned duty of serving bailable warrants on the prosecution witnesses. Departmental proceedings against whom are also pending. The trial court was not justified in closing the evidence merely because certain material witnesses turned hostile and one witness failed to depose despite having availed several opportunities. Under the circumstances, I hereby set-aside the order passed by the trial court. It shall proceed with the trial as per law.

Petition is allowed in these terms.

**(Rajan Gupta)**  
**Judge**

April 05, 2016.  
BB