

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-26548 of 2016

.....

Date of decision:3.8.2016

Krishan Kumar

...Petitioner

v.

Pal Chand and another

...Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. Amandeep Singh Manaise, Advocate for the petitioner.

.....

**Inderjit Singh, J.**

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of impugned order dated 28.4.2016 (Annexure-P.5) passed by learned Judicial Magistrate Ist Class, Naraingarh, vide which application dated 26.8.2015 (Annexure-P.3) filed under Section 311 Cr.P.C. by the complainant/petitioner has been declined, the same being wrong, illegal and unjust and for providing one opportunity to recall and examine Krishan Kumar (complainant), Kulwant Singh (Depot Holder) and Vijay Kumar (CW-2) in pre-charge evidence.

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

From the record, I find that in the present case, application under Section 311 Cr.P.C. has been filed by the complainant by stating that he was present on 31.7.2015, but still the evidence of the complainant was

closed by order of the Court. He also stated that the cross-examination of witness Vijay Kumar was also not recorded in the present case and now by way of that application, the applicant wants to examine himself, Vijay Kumar and Kulwant Singh.

Learned Judicial Magistrate Ist Class, Naraingarh, by discussing the dates on which the adjournments were given found that the case pertains to the year 2012 and on 28.2.2014, case was adjourned for pre-charge evidence of the complainant for 17.4.2014. The learned Magistrate has held that 11 opportunities to conclude its evidence were given but the complainant failed to do so. The Court below further held that there is no reason as to why the evidence could not be concluded during these opportunities. On many dates, exemption applications on behalf of the complainant were filed which were allowed. Counsel for the complainant appeared on each and every date of hearing, but still he failed to conclude the evidence. Perusal of the order further shows that last opportunity was granted. Even again second last opportunity was granted. Again after that one opportunity was granted.

Keeping in view the order dated 28.4.2016 passed by the learned Judicial Magistrate Ist Class, Naraingarh, I find no merit in the present petition. The order passed by the Court below is correct as per evidence and law and does not require any interference from this Court. No illegality has been committed by the learned Judicial Magistrate Ist Class, Naraingarh, in the above order. The complainant cannot be allowed to harass the accused by asking for adjournments for about 1½ years and even

[3]

he has not examined himself.

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

August 3, 2016.

**(Inderjit Singh)**  
**Judge**

\*hsp\*

|              |                            |     |
|--------------|----------------------------|-----|
| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |