

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-29797-2016 (O&M).
Decided on: October 18, 2016.

Balwinder Singh

.. Petitioner(s)

VERSUS

State of Punjab and others

.. Respondent(s)

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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**PRESENT Mr.R.S.Sekhon, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner is a complainant in a case of assault registered against the private respondents Harinder Singh and others. He has challenged the legality and propriety of order dated 18.7.2016, by virtue of which evidence of the prosecution has been closed.

Counsel for the petitioner has submitted that three witnesses i.e. two doctors and one Head Constable who had been cited as witnesses and are material witnesses for enabling the trial Court to arrive at a just conclusion, have not been permitted to be examined as the evidence of the prosecution has been closed by impugned order dated 18.7.2016. The legality and propriety of the order dated 18.7.2016, has been challenged by laying emphasis on the importance of the medical evidence in an assault case. Head Constable Raj Singh who has not been examined by the prosecution had recommended the enhancement of the offences on the basis of the grievous injuries received by the petitioner.

I have heard the learned counsel for the petitioner and I am of the opinion that the importance of the prosecution witnesses who had not been permitted to be examined on account of closer of evidence of the prosecution cannot be looked into by this Court at the first hand. In case the petitioner moves an application under Section 311 Cr.P.C., for summoning the above said witnesses, the trial Court can appreciate the importance of said witnesses for the just decision of the case and in exercise of powers under Section 311 Cr.P.C. require the above said witnesses to be examined.

This petition is disposed of with above said observations without prejudice to the right of the petitioner or the prosecution agency to avail the remedy under Section 311 Cr.P.C.

It is made clear that the Judicial Magistrate will not be debarred from judicious application of mind regarding the importance of the witnesses who have not been examined before closing the evidence by order.

(M.M.S. BEDI)
JUDGE

October 18, 2016.
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Whether speaking / reasoned
Whether Reportable:

Yes / No
Yes / No