

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

**Criminal Misc. No. M-29819 of 2015
Date of Decision:-18.11.2016**

Ajit Gupta

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Amit Kumar Saini, Advocate
for the petitioner.

Mr. Sultan Singh Gill, Deputy A.G., Punjab.

Mr. S.S. Rangi, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

The petitioner has filed the present petition under Section 482 Cr.P.C. for quashing/setting aside the order dated 23.7.2015 (Annexure P-2) passed by learned SDJM, Samrala whereby the evidence of the prosecution was closed by Court order and accused was directed to appear on 28.7.2015 for recording of his statement under Section 313 Cr.P.C.

Learned counsel for the petitioner has argued that FIR No.92, under Sections 419, 420, 465, 468, 471 IPC was registered against the respondent No.2-accused on 18.5.2011 and vide order dated 23.7.2015 the prosecution evidence has been closed. He further states that since 28.2.2013 almost all the adjournments were sought by the accused and not

by the petitioner. Therefore, the observation made by learned Magistrate that the prosecution has availed various opportunities, is contrary to the record.

Learned counsel appearing for respondent No.2 does not dispute that the FIR in question was registered on 18.5.2011, however, he states that since the prosecution has failed to lead its evidence, no further opportunity is required to be granted. He further states that in case this Court finds that there is any justification with the petitioner, let the respondent-accused be compensated adequately.

I have heard learned counsel for the parties.

The various zimni orders produced by learned counsel for the petitioner shows that at most of the times the case was adjourned on the application of exemption made by the accused, therefore, the observation made by learned Magistrate that the prosecution has availed number of opportunities and despite such opportunities, the prosecution has failed to adduce the complete evidence, cannot be accepted.

Accordingly, the present petition is allowed and the order dated 23.7.2015 (Annexure P-2) is set aside and the prosecution is directed to complete its evidence in three effective opportunities. However, these three opportunities means that either of the party shall not seek adjournment.

November 18, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No