

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-31971 of 2016

.....

Date of decision:8.9.2016

Tardeep Singh

.....Petitioner

v.

Damanbir Singh

.....Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Dilpreet Singh Gandhi, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the order dated 2.9.2016 (Annexure-P3) passed by the learned Judicial Magistrate Ist Class, Amritsar, in criminal complaint No.799 of 2014 dated 23.1.2014 titled as “Damanbir Singh Vs. Sushil Kumar and others”, vide which the learned Court has wrongly closed the evidence of the defence and that too without giving the proper opportunity to the petitioner. It has further been prayed that the petitioner may be given the opportunity to get his evidence done, which is very necessary for just and fair decision.

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

From the record, I find that the learned Judicial Magistrate Ist Class, Amritsar, vide order dated 2.9.2016 closed the oral evidence and fixed the case for 9.9.2016 for documentary defence evidence of the accused, if any, or for arguments.

A perusal of the impugned order shows that the case was fixed for DWs on that day. Accused No.3 Tardeep Singh appeared in the Court on that day, but the other accused No.2 Gurpreet Singh had not come in the Court nor any exemption application was filed on his behalf. It has been stated that on the last date of hearing counsel for accused No.2 had filed an application for exemption of personal appearance on the ground that accused No.2 had gone to USA for his treatment. The Court below held that no permission had been taken by accused No.2, namely, Gurpreet Singh from the Court prior to going to USA and he has absented without any intimation and his bail order was cancelled. Qua accused No.3 Tardeep Singh-present petitioner, it was stated that no defence witness was present on that day. The Court further held that a perusal of the file reveals that in this case statement of accused under Section 313 Cr.P.C. was recorded on 16.10.2015 and thereafter, the case is pending for defence evidence of the accused. Again accused No.3 on that day requested for adjournment for DWs and it was held that the accused has already availed numerous opportunities for defence evidence. Therefore, there was no ground for adjourning the case for same purpose, as such oral evidence of accused No.3 was closed by order.

At the time of arguments, learned counsel for the preset

petitioner argued that the present petitioner had gone to USA and has come back on 30.8.2016. Therefore, he argued that he could not produce the DWs and one more opportunity be granted for producing the DWs. When asked from the counsel as to whether the present petitioner while going to USA had informed the Court or has taken any permission from the Court, the reply was in the negative which means that the present petitioner was not producing the defence evidence and had gone to USA without even informing the Court. For his lapse or negligence, the complainant is not to suffer. As per the impugned order, statement under Section 313 Cr.P.C. has already been recorded on 16.10.2015 almost about 11 months back and the accused are not producing the defence witnesses. Even the impugned order shows that now another accused Gurpreet Singh had gone to USA without informing the Court.

At the time of arguments, when enquired from the counsel as to how many opportunities the accused had availed, the learned counsel informed this Court that the petitioner has availed about 8 opportunities to produce the defence evidence.

In my view, 8 opportunities granted to the petitioner are more than reasonable for producing the defence evidence.

Therefore, in view of the above facts, I find that no illegality has been committed by the Court below by closing the oral evidence of the petitioner. Hence, the order passed by the learned Judicial Magistrate Ist Class, Amritsar, is correct, as per law and does not require any interference from this Court.

[4]

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

September 8, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No