

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

**CRM-M No.37171 of 2016 (O&M)
DECIDED ON: DECEMBER 16, 2016**

GURDEEP KAUR

..... PETITIONER

VERSUS

STATE OF PUNJAB & ANR

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. HPS Ghuman, Advocate
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

None for respondent No.2.

JASPAL SINGH, J

CRM No. 37815 of 2016

Application is allowed, as prayed for.

CRM No. 37816 of 2016

In view of averments made in the application is allowed and the main
case is preponed from 22.03.2017 for today.

Main Case

By virtue of instant petition preferred under Section 482 Cr.P.C.,
petitioner has sought the quashing of order dated 29.08.2016 (Annexure P-1)
passed by learned SDJM, Abohar, in a case FIR No. 239, dated 22.10.2012, under
Section 420 IPC, registered at Police Station City Abohar, District Fazilka vide

which the evidence of the prosecution has been closed by order.

The contention of learned counsel for the petitioner is that the FIR referred to above has been registered on the basis of inquiry report dated 17.07.2012 made by Raj Kumar, DSP, Abohar. Since, the report made by DSP is the foundation of FIR, his examination as a prosecution witness in the case is necessary for the proper adjudication of the matter in controversy. However, learned trial Court did not appreciate this fact and without securing the presence of Raj Kumar, DSP, Abohar, closed the evidence of the prosecution. Accordingly, he prayed that a single opportunity be given to the petitioner for the examination of Raj Kumar, DSP, Abohar.

This Court has given a deep thought to the rival submission made by learned counsel for the petitioner and have also scrutinized the various interim orders passed by learned trial Court.

Though the efforts were made to secure the presence of Raj Kumar, DSP by writing various letters to the Senior Superintendent of Police, Fazilka but remain fructified. However, when he did not appear, the evidence of the prosecution was closed by order. The closure of evidence by learned trial Court in the absence of examination of Raj Kumar, DSP, who can be termed to be a material witness, would result into miscarriage of justice. Thus, this Court is of the view that, examination of Raj Kumar, DSP is necessary for imparting justice between the State and the subject.

Accordingly, instant petition is allowed and learned trial Court is directed to afford two effective opportunities to the petitioner for the examination of Raj Kumar, DSP, Abohar. Senior Superintendent of Police, Fazilka is also directed to make it convenient to secure the presence of Raj Kumar, DSP on the date(s) fixed

by learned trial Court.

A copy of this order be sent to the concerned quarters.

DECEMBER 16, 2016

(JASPAL SINGH)
JUDGE

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>