

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

CRM-M-39701-2016 (O&M)
Date of decision : 07.11.2016

Manipal Dhariwal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jasdev Singh Mehndiratta, Advocate,
for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been filed under Section 482 of the Code of Criminal Procedure, for quashing of order dated 02.09.2016 (Annexure P-6), thereby partly dismissing application under Section 311 Cr.P.C. and order dated 27.10.2016 (Annexure P-7), whereby, the prosecution evidence has been closed by order.

The grouse of the complainant/petitioner is that the witnesses at serial No.5 and 6 were not summoned by the trial Court despite the fact that their deposition is very much necessary for the just decision of the case.

Heard.

The trial Court, after considering the material placed on record came to the conclusion that the witnesses mentioned at serial No.5 and 6 were neither joined in the investigation nor their statements were recorded by the investigating officer. If these witnesses are summoned at this stage, certainly a prejudice is going to be caused to the accused and the accused

will be bereft of the benefit of contradicting the witnesses without there being any statement under Section 161 Cr.P.C. That apart, the test to summon witnesses under Section 311 Cr.P.C. is that whether their evidence is necessary for the just decision of the case. This Court feels that their evidence is not required for the decision of the case, rather it will linger on the case.

The petitioner has also laid challenge to order Annexure P-7, whereby, the prosecution evidence has been closed by order. However, a perusal of the impugned order reveals that the prosecution was given sufficient time to produce its witnesses. When the trial Court felt that the prosecution was not examining its witnesses and was bent upon to linger on the case, the Court by passing the impugned order, rightly closed the prosecution evidence. This Court is of the opinion that the order is in consonance with law and the same does not warrant any interference.

Consequently, finding no merit in the instant petition, the same is hereby dismissed, *in limine*.

07.11.2016

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No