

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

Sr. No.120

CRM NO. M-39770 of 2016

DECIDED ON: November 08, 2016

PRABHJOT SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vivek Salathia, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

The instant petition preferred under Section 482 Cr.P.C. petitioner-Prabhjot Singh has sought setting aside/quashing of the order dated 22.07.2016 (Annexure P-1) passed by Judicial Magistrate Ist Class, Amritsar vide which the application filed by the prosecution under Section 311 Cr.P.C. has been dismissed.

Notice of motion.

At the asking of the Court, Mr. RPS Sidhu, AAG, Punjab accepts notice on behalf of the respondent-State of Punjab. Copy of the petition be supplied to learned State counsel during the course of day.

A perusal of the file reveals that due to some inadvertence/oversight, the name of the Medical Officer, who conducted the CT Scan of the injuries appearing on the person of complainant-Baljinder Singh could not be arrayed/cited as one of the prosecution witnesses. An application moved by the prosecution under Section 311 Cr.P.C. has been

CRM NO. M-39770 of 2016

dismissed simply on the ground that application has been filed at belated stage and further prosecution had already availed as many as 48 opportunities including last opportunity, but these reasons are not sufficient to decline the application especially in the circumstances that the court is required to adjudicate upon the matter in a fair and judicious manner and one should not be declined the relief on technical grounds.

Thus, this court is of the considered view that impugned order dated 22.07.2016 is not maintainable in the eyes of law and as such, the same is set aside by way of acceptance of the petition. However, it is made clear that in case accused-respondent still feels dis-satisfied qua this order, they would be at liberty to approach this Court.

Further, prosecution would be granted a single opportunity to adduce and conclude its evidence and Senior Superintendent of Police concerned shall ensure the presence of the concerned Medical Officer on the date fixed by the trial court.

Disposed of.

November 08, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No