

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

Sr. No.123

CRM NO. M-42075 of 2016

DECIDED ON: November 29, 2016

DR. DEVENDER SINGH

..PETITIONER

VERSUS

NAVDEEP SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Section 482 Cr.P.C. petitioner has sought quashing of impugned order dated 14.09.2015 (Annexure P-6) passed by Judicial Magistrate Ist Class, Dabwali, whereby an application moved by the prosecution under Section 311 Cr.P.C. has been partly allowed but revision petition preferred by the prosecution has been declined in respect of production of laptop/case property in the court.

A close scrutiny of the impugned order transpires that the laptop was recovered from accused-respondent No.1-Navdeep Singh during investigation of the case registered against him and its production in the court was necessary for providing full opportunity of being heard to the prosecution. Due to certain reasons, prosecution failed to produce the said laptop during the period, the case was fixed for prosecution evidence. It can be termed to be a lapse or omission on the part of the prosecution, but for that lapse or omission, the complainant cannot be made to suffer.

In other words, the accused also cannot drive any benefit for the non-production of the case property/laptop in the court. The production of the other evidence by the prosecution could be well supported from the material available in the laptop to bring truth to the fore and to punish the guilty person. Moreover, the discretion provided under Section 311 Cr.P.C. has to be exercised judiciously and this court is of the considered view that it would be fitness of things that the laptop be produced in the Court and it is only thereafter it would bring some fruitful result.

Taking into consideration the aforesaid discussion, instant petition is allowed and the order dated 14.09.2015 is set aside. Consequently, prosecution is allowed to produce the case property in the Court within a period of one month from the date of receipt of certified copy of this order or on any date convenient to the trial court.

Since, this order has been passed in the absence of the respondent No.1/accused, if he is so aggrieved, he may approach this Court.

November 29, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No