

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

CRM-M-43908-2016

Date of decision: 9.12.2016

Mohinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Ashok Giri, Advocate for the petitioner

SNEH PRASHAR, J.

The present petition under Section 482 of the Code of Criminal Procedure has been filed for setting aside the orders dated 17.11.2016 (Annexure P-4) and 18.11.2016 (Annexure P-5) passed by learned trial Court and to grant one effective opportunity to the prosecution /complainant to conclude the entire evidence.

The submissions made by Mr.Ashok Giri, Advocate representing the petitioner have been heard.

Learned counsel for the petitioner submits that in the present case, the charges were framed on 13.6.2016. Out of 22 witnesses the prosecution was able to examine only 6 PWs and learned trial Court vide order dated 5.10.2016 closed the evidence by court order. Thereafter on an application filed under Section 311 Cr.P.C. only one more opportunity was granted to the prosecution to conclude its entire evidence vide order dated 17.11.2016 and the case was adjourned

to 18.11.2016. On the given date only petitioner Mohinder Singh complainant was examined as PW7. Now the trial Court has fixed the case for recording statement of the accused under Section 313 Cr.P.C. Submitting that the remaining PWs are very material for just and proper adjudication of the case, learned counsel prays for one more opportunity to lead the entire remaining evidence by the prosecution.

Nine opportunities were availed by the prosecution for its evidence before vide order dated 5.10.2016 the evidence of the prosecution was closed by court order. During that period even the complainant did not appear for his statement. Thereafter on an application under Section 311 Cr.P.C. filed by the prosecution, though the evidence had been closed by court order, yet one more opportunity was given to the prosecution to examine its remaining witnesses on the date fixed i.e. 18.11.2016. On the said date only the complainant appeared and his statement was recorded. No other witness appeared although majority of the witnesses left were police officials. After recording the statement of complainant, the case was adjourned for recording the statement of the accused under Section 313 Cr.P.C.

The complainant has now come up with the instant application for setting aside the order dated 17.11.2016 on the ground that only one opportunity had been allowed to the prosecution to lead its evidence. The facts discussed above speak otherwise. The case is of the year 2004. Sufficient opportunities for evidence were granted to the prosecution by learned trial Court and importantly even the complainant

appeared in the witness box only after the prosecution evidence was closed by court order and thereafter the prosecution was granted one more opportunity by the trial Court for leading evidence. In the order dated 17.11.2016, it was specifically mentioned that the prosecution be granted only one effective opportunity to conclude the examination of the witnesses mentioned in the application at its own responsibility. Despite that on 18.11.2016, prosecution examined only Mohinder Singh (petitioner) as PW7.

In view of the matter, this Court finds no ground to grant any further opportunity to the prosecution to lead evidence. There being no merit in the present petition, the same stands dismissed.

9.12.2016
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No