

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

**CRM-M-6527 of 2016
DECIDED ON: FEBRUARY 23, 2016**

Balbir Singh (since deceased) through his LR

....Petitioner...

VERSUS

State of Punjab and others

....Respondents...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. N.K. Vadehra, Advocate,
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J (ORAL)

Through, instant petition moved under Section 482 of the Code of Criminal Procedure, the petitioner has sought setting aside of order dated August 26, 2015 (Annexure P-3), vide which, the evidence of the complainant was closed by order as well as order dated December 13, 2015 (Anneuxre P-4) dismissing the revision petition by the Id. Sessions Judge, Gurdaspur.

2. A perusal of the file transpires that in a complaint preferred by petitioner against Dilbagh Singh and others, under Sections 323, 447, 452, 148, 149, 506 IPC and 25 of the Arms Act, the petitioner examined himself and Charanjit Kaur, an eye witness on August 26, 2015 and as

per the version of the learned counsel for the petitioner, a doctor, who radiologically examined the injuries on the person of Balbir Singh and others (injureds) has not been examined but it has simply pointed out by Id. Magistrate that since, it was last opportunity, no ground is made out for further adjournment in the case. Accordingly, he closed the evidence and further deferred the matter to October 19, 2015 for consideration on the point of summoning. The said order was challenged by way of revision petition before the Id. Sessions Judge, Gurdaspur, who dismissed the same by upholding the impugned order dated August 26, 2015 passed by the Id. Magistrate.

3. A glance at the documents available on file reveals that petitioner deposited the diet money with the permission of the concerned Court for summoning and examining Dr. S.Singh, Civil Hospital, Batala. After the deposit of the necessary diet money, it was the duty of the Court to secure their presence in the Court to examine them as witnesses. But the impugned order(s) passed by both the courts below are absolutely silent about this aspect that whether the summons were issued to Dr. S. Singh. There is no reference in the impugned order(s) that any notice was issued to Dr. S. Singh, who medico legally examined Balbir Singh and others, for the date on which, the evidence has been closed by order. It was obligatory upon the Id. Magistrate to secure the presence of the aforesaid doctor but instead of securing his presence, he opted to close the evidence, which is likely to cause serious prejudice to the petitioner.

4. Taking into consideration the aforesaid aspect of the case,

this Court is of the considered view that both the orders dated 26.08.2015 and 03.12.2015, are not sustainable in the eyes of law. Thus, the impugned orders are set aside by way of acceptance of the instant petition.

5. While parting with this order, it is made clear that if the opposite party is aggrieved of this order, it shall be at liberty to approach this Court for its cancellation.

FEBRUARY 23, 2016
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(JASPAL SINGH)
JUDGE