

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-7339 of 2016

.....

Date of decision:29.2.2016

Sunder

...Petitioner

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Deep Karan Dalal, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 13.1.2016 (Annexure-P.6), whereby the learned trial Court has declined the application filed under Section 311 Cr.P.C. for examining the PW Dr. Mukul Adalakha, who examined the injured witnesses and HC Ajit Singh, who is the Investigating Officer, during the trial arising out of case FIR No.171 dated 10.7.2011 registered for the offences under Sections 323, 324 and 34 IPC registered at Police Station Chandhuth, Tehsil and District Palwal and also the order dated 5.11.2015 (Annexure-P.4), whereby the learned trial Court has closed the evidence of the prosecution.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the FIR No.171 dated 10.7.2011 was registered for the offences under Sections 323, 324 and 34 IPC at Police Station Chandhut, Tehsil and District Palwal. An application under Section 311 Cr.P.C. was filed. As per the learned APP, 12 witnesses are to be examined by the prosecution, but only seven witnesses have been examined and two witnesses, namely, Rajwati and Dharamwati were given up by the Public Prosecutor. The material witnesses in the present case i.e. Investigating Officer HC Ajit Singh and two doctors were left to be summoned/examined. Since the prosecution evidence was closed by Court order on 5.11.2015, these witnesses could not been summoned/examined, which are very essential and necessary for the just and proper decision of the case.

The trial Court after going through the record held that numerous effective opportunities were given to the prosecution for concluding the evidence on its behalf. Almost three years were given for the same purpose and even the summons and warrants were issued through various modes including service through Superintendent of Police, Palwal, however, only seven witnesses could be examined. The trial Court held that speedy justice is a fundamental right and even the accused is entitled for the same.

Learned counsel for the petitioner has not contested these findings that numerous effective opportunities were given for the production of evidence to the prosecution and the summons and warrants were issued through Superintendent of Police. Learned counsel for the

petitioner only argued that these witnesses are material witnesses and these should be examined by the Court.

This is a petition filed under Section 482 Cr.P.C. for quashing. The Court is to see whether the impugned order is against the law or amounts to miscarriage of justice etc. under Section 482 Cr.P.C. From the perusal of the order itself the order passed by the learned Judicial Magistrate Ist Class, Palwal cannot be held that it is against the law or it amounts to miscarriage of justice. The Court below has given reasonable opportunities to the prosecution to conclude the evidence. If the prosecution did not take interest and even the Investigating Officer did not come present for examination, then the Court has left with no other alternative except to decline further adjournments and to close the evidence by order. It is in the order itself that numerous effective opportunities were given and almost three years were given for the same purpose.

From the above, I do not find that any illegality has been committed by the Court below while passing the impugned order. No ground is made out for setting aside the order passed by the Judicial Magistrate Ist Class, Palwal.

Therefore, finding no merit in this petition, the same is dismissed.

February 29, 2016.

(Inderjit Singh)
Judge

hsp