

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1283 of 2015

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Date of decision:20.9.2016

Sarwan Kumar

...Petitioner

v.

State (U.T., Chandigarh)

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Davinder Lubana, Advocate for the petitioner.

Mr. Parveen Chauhan, Advocate for Mr. Gagandeep Singh,
Additional P.P., for respondent-U.T., Chandigarh.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned order dated 31.3.2015 passed by learned Additional Sessions Judge, Chandigarh, dismissing the application filed by the accused.

Notice of motion has been issued in this case.

Mr. Parveen Chauhan, learned Advocate appearing for Mr. Gagandeep Singh, learned Additional P.P., has put in appearance on behalf of the respondent-U.T., Chandigarh and contested this revision petition.

I have heard learned counsel for the petitioner as well as learned counsel for the respondent-U.T., Chandigarh and have gone through the record.

From the record, I find that the learned Additional Sessions Judge, Chandigarh vide order dated 31.3.2015 dismissed the application filed by the accused. List of nine witnesses to be examined by the accused had been given. The learned Additional Sessions Judge by passing a speaking order allowed the application only to the summoning of witnesses figuring at serial Nos.3 and 9 and it was held that the remaining witnesses are being only mentioned in the application to delay the proceedings. The copy of the application has been placed on the record. The accused wants to summon witness No.1 from the office of Municipal Corporation, Chandigarh, with record to prove that there is way opened to go inside Shivalik Garden, Manimajra, towards the side of tube-well. Nothing has been mentioned as to how this witness is a material witness to prove the defence. Witness No.2 is an official from the office of Meteorological Centre, Chandigarh with the record of data regarding rain in Chandigarh including Manimajra and time of sunset. Again nothing is there in the application as to why this witness has been summoned and as to how his testimony is relevant. Witness No.4, Handwriting Expert was stated to be summoned with report of verification of entry No.1150 dated 22.1.2014 Malkhana Register of Police Station, Manimajra. There is nothing in the application as to whether this record had been summoned and any entry has been proved before the Court or as to for what purpose the Handwriting Expert is to be examined. Similarly, I have gone through the other witnesses. There is nothing as to how these witnesses are relevant. The Sessions Court can refuse to summon the witness on the ground that the

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application has been filed only to delay the disposal of the case. Section 233 sub-section (3) Cr.P.C., provides that if the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. The present case, as argued, is under the Narcotic Drugs and Psychotropic Substances Act, 1985 and recovery of narcotics has been recovered from the accused by apprehending him on the spot. The order passed by the learned Court below is as per law.

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

September 20, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No