

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

CRR No.4859 of 2015 (O&M)
Date of Decision:- October 22, 2016

Hari Dev

...Petitioner

VERSUS

Madha Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.G.S.Sirpikhi, Advocate
for the petitioner.

Mr.G.P.S.Randhawa, Advocate
for the respondent.

INDERJIT SINGH, J.

The petitioner has filed this revision petition under Section 401 Cr.P.C. against respondents Madha Singh, challenging the order dated 20.10.2015 passed by learned Judicial Magistrate Ist Class, Batala, vide which the evidence of the complainant-petitioner was closed by order.

Notice of motion was issued and learned counsel for the respondent appeared and contested the petition.

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

From the record, I find that learned JMIC, Batala, vide order dated 20.10.2015, closed the evidence of the complainant by stating that no CW is present and perusal of the file reveals that the complainant has failed

to conclude the entire evidence despite availing numerous opportunities including last opportunity.

Learned counsel for the petitioner brought to the notice of this Court that in the interim orders passed by the Court below in this case, only one opportunity to lead the evidence has been given and on 20.10.2015, it was second opportunity.

In the petition, interim orders passed by the Court below have been reproduced. As per the interim order dated 08.09.2015, bailable warrants of accused No.2 were received back un-served and the complaint was dismissed against accused No.2 as per the statement of the complainant and then the case was ordered to be put up in the Lok Adalat on 12.09.2015 for compromise. Then the file was put up before the Lok Adalat for compromise on 12.09.2015, where the case was adjourned for 09.10.2015.

Learned JMIC, Batala, vide order dated 09.10.2015, ordered that no CW was present on that day and the case was adjourned for 20.10.2015 for CWs being last opportunity, which means that only one clear opportunity was given to the complainant on 09.10.2015 for producing the evidence. Then the case was adjourned for 20.10.2015 and on that day, the evidence was closed.

The observation of learned Magistrate in the order dated 20.10.2015 that numerous opportunities have been availed including last opportunity, is not as per the record. Reasonable opportunities were not given to the complainant to produce and complete the evidence. The impugned order dated 20.10.2015 passed by learned JMIC, Batala, is not correct and as per law. Therefore, the same is set aside.

Hence, finding merit in the present petition, the same is

allowed. It is ordered that two clear opportunities be given to the complainant-petitioner for producing and concluding his evidence and if any application is filed for summoning official witnesses, the trial Court would procure their presence for recording their statements.

October 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No