

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

CR No.1925 of 2017

Date of decision: March 17, 2017

Baljinder Singh

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Gagandeep S. Sirphikhi, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

Through the instant petition preferred under Article 227 of Constitution of India, petitioner has sought setting side of the order dated February 15, 2017 passed by Additional Civil Judge (Senior Division) Batala in Case No.138 of 2007 vide which the rebuttal evidence has been closed by order.

A close scrutiny of the file reveals that vide order dated 13th February, 2017, Baljinder Singh son of Kartar Singh, who was earlier lodged in Central Jail, Gurdaspur was summoned as a witness for 15th February, 2017 but prior to that, he was shifted to District Jail Dharamshala (HP) on 27th December, 2016. A letter to this effect was also written by Superintendent Central Jail, Gurdaspur through the concerned Court but without securing the presence of aforesaid Baljinder Singh as a witness from District Jail, Dharamshala (HP), vide impugned order dated 15th February, 2017 the evidence has been closed. The impugned order can be termed to be absolutely in violation of the natural principles. Once the summons have been issued to the witness by way of production warrants, it was incumbent upon the Court concerned to secure his presence and

not to close the evidence simply saying that the case falls under the category of action plan cases. It clearly amounts to injustice.

Thus, the impugned order being unsustainable in the eyes of law is *set aside*. Trial Court is directed to secure presence of PW-Baljinder Singh to examine him as a witness.

In case the respondent feels aggrieved of this order, he may approach this Court.

Disposed of.

March 17, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No