

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-18274 of 2017

.....

Date of decision:22.5.2017

Jasbir Singh Khurana

...Petitioner

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.P. Kaushal, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 7.10.2016 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which application under Section 311 Cr.P.C. has been dismissed and the order dated 12.4.2017 passed by learned Additional Sessions Judge, Ludhiana, vide which revision petition filed by the petitioner against said order dated 7.10.2016 has been dismissed.

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

From the record, I find that in the present case, application under Section 311 Cr.P.C. was filed to summon and examine material witnesses Damanpreet Singh and Gurpreet Singh now posted as Superintendent of Police at Malerkotla or his Reader, namely, ASI Gulshan Kumar now posted at Malerkotla and Joginder Singh, then posted as

A.D.C.P.-III at Ludhiana or his Reader Kulwinder Singh.

The learned Judicial Magistrate Ist Class, Ludhiana, vide order 7.10.2016 dismissed the application. It is clear from the record that earlier the evidence of the prosecution has been closed by order. The fact regarding the same has also been mentioned in the impugned order. It is in the impugned order that evidence was closed after giving 36 effective opportunities to the prosecution and last opportunity was also granted. The Court below, therefore, held that no ground was made out for examining the witnesses and giving further opportunity to the prosecution under Section 311 Cr.P.C.

At the time of arguments, learned counsel for the petitioner admitted that earlier order vide which the further adjournment was declined to the prosecution to complete the evidence has not been challenged. From the record, I find that the order passed by this Court is correct as per evidence and law and no illegality has been committed. Once the Court declined further opportunity to the prosecution to examine the witnesses, then under the guise of the application under Section 311 Cr.P.C. that order cannot be made ineffective or set aside without challenging the earlier order passed by the Court where further adjournment has been declined to the prosecution.

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

May 22, 2017.

(Inderjit Singh)
Judge

hsp

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