

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23339-2017

Date of decision: July 26, 2017.

Ashok Bhalla

... **Petitioner**

v.

State of Haryana

... **Respondent**

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Preetinder Singh Ahluwalia, Advocate for the petitioner(s).

Ms. Tanushree Gupta, Deputy Advocate General, Haryana.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the assistance of learned counsel for the parties.

The petitioner filed an application in a pending trial before the Additional Sessions Judge, Jind for summoning of defence witnesses. One defence witness by name Rohtash Mann was examined as stated by counsel for the petitioner. However, the impugned order shows that the application for adducing additional evidence was not entertained. Thus, there appears to be factual error on the part of the trial court in holding that Rohtash Mann was not examined.

The next question is about the two remaining witnesses mentioned in the application as (ii) and (iii). The trial court has relied on the earlier order of this Court in para 6 for the purpose of rejecting the said request for examining the defence witnesses.

I have perused the earlier order of this Court and the proceedings in which the said order was passed. The said order was passed by this Court on 20.11.2015 not entertaining the petition on the ground that at the stage of 173 report, it was not possible to exercise power at that premature stage. That was the sum and substance of the said order. The trial court however utilized the said part of the order which say that, “in the present case factum of raid is not in dispute”, in order to reject the prayer. That could not have been done. The petitioner wanted to examine defence witnesses which he has a right to examine. The petitioner could not be denied the right to examine the remaining two witnesses as defence witnesses as they were relevant. There is no question of refusing to examine the defence witnesses which he intends to examine as defence witnesses. It is made clear that hereinafter the petitioner will be entitled to examine those two defence witnesses as mentioned in the application dated 18.4.2017.

In that view of the matter, the petition is allowed and the impugned order dated 2.6.2017 (Annexure P-6) is quashed and set aside. The petitioner shall examine those two witnesses before the trial court at an appropriate stage in accordance with law.

Disposed of.

July 26, 2017.

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[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No