

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

267

CRM-M-24820 of 2017

DATE OF DECISION: 08.11.2017.

Leela Ram

....Petitioner.

VERSUS

State of Haryana and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. J.P. Sharma, Advocate for the petitioner.

Mr. Munish Dev Sharma, AAG, Haryana.

Mr. Devender Arya, Advocate for respondents No.2 to 8.

Shekher Dhawan, J. (Oral)

Power of Attorney filed on behalf of respondents No.2 to 8 is taken on record.

Present petition is for quashing of order dated 03.07.2017 passed by learned Additional Sessions Judge, Narnaul, whereby the prosecution evidence was closed by Court order in case FIR No.190 dated 20.05.2015, under Sections 147, 148, 323, 325, 327 and 447 of IPC, registered at Police Station Kanina, District Mahendergarh.

Learned counsel for the petitioner contended that on 17.05.2017 summones were issued to material witnesses Dr. Jitender Kumar, Dr. Vivek and ASI Ashok Kumar to appear in the Court on 03.07.2017 which were received back duly served.

The prosecution witness Dr. Jitender Kumar made a request to the Court for adjournment and summon of Dr. Vivek was received back

with the report that he was on leave till 09.07.2017 and summon of ASI Ashok Kumar was received back duly served for the said date. However, learned Additional Sessions Judge, Narnaul closed the prosecution evidence in the given circumstances despite the fact that three material witnesses of the case were served for the said date.

Learned counsel for the petitioner also contended that it was not justified to close the prosecution evidence especially when the material witnesses were served for the date fixed and the Court should have issued warrants of arrest against the witnesses, so that prejudice was not to be caused to the complainant of the case by closing the prosecution evidence.

Considering the above facts, that the above named three prosecution witnesses were duly served for the date fixed, it was not justified for learned trial Judge to close the prosecution evidence and if the Court was of the view that the presence of these witnesses was essential, warrants of arrest against them were required to be issued rather than closing the prosecution evidence. Material prejudice has been caused to the prosecution and complainant. As such, the order dated 03.07.2017 is set aside. However, it is made clear that prosecution shall make strenuous efforts to effect the service of these witnesses for the next date fixed by the learned trial Court and trial Judge to conclude the prosecution evidence expeditiously.

Accordingly, the present petition stands disposed of.

(SHEKHER DHAWAN)
JUDGE

08.11.2017.
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