

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CRM-M-29743-2015 (O&M)

Date of decision : 10.01.2017

Inder Pal

...Petitioner

Versus

Dharam Pal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. V.B.Aggarwal, Advocate, for the petitioner.

Mr. J.P.Ahlawat, Advocate, for  
Mr. N.D.Achint, Advocate, for the respondents.

**JITENDRA CHAUHAN J. (ORAL)**

The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing of order dated 19.08.2015 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Jagadhari, whereby the evidence of the petitioner has been closed.

Learned counsel for the petitioner refers to Annexure P-2, the summons issued to ASI Ram Phal, Annexure P-3, summons issued to HMC, Police Station Farakpur and Annexure P-4, summons issued to Dr. Vikas Paul, to contend that despite due service, these witnesses did not appear before the learned Trial Court. Therefore, the Court was required to initiate coercive methods to ensure their presence to support the case of the prosecution.

On the other hand, learned counsel for the respondents submits that the petitioner was given last opportunity to conclude the entire evidence at his own responsibility on 10.08.2015. Further opportunity was granted to him on 19.08.2015 but none of the witnesses were examined on the said date and the evidence of the petitioner was rightly ordered to be closed.

Heard learned counsel for the parties.

It is settled law that procedure is meant to sub-serve and not rule the cause of justice. Procedural laws must be liberally construed to really serve as handmaid. Technical objections which tend to defeat and deny substantial justice should be strictly discouraged.

Petitioner sought to summon the public servants, whose statements have material bearing on the case of the prosecution. The case of the prosecution cannot be allowed to fail simply on the ground that certain State officials did not come before the Court despite service of summons. Once the FIR is registered, the State officials are under obligation to defend the case of the prosecution. Considering the fact that the prosecution witnesses are not the agents/subordinates of the petitioner and their presence is required for just decision in the matter, in such circumstances, it is the duty of Court to ensure presence of official witnesses. The statements of these witnesses are vital in nature. Therefore, the Court feels that it will be in the interest of justice if the witnesses referred in Annexures P-2 to P-4 would be summoned by taking appropriate action in accordance with law as their testimonies are materially involved in the issue in question.

Accordingly, order dated 19.08.2015 (Annexure P-5), whereby the evidence of the petitioner was closed, is hereby quashed. The parties shall appear on 17.02.2017 before the learned Trial Court.

**(JITENDRA CHAUHAN)**  
**JUDGE**

10.01.2017  
adhikari

***Whether speaking/reasoned*** : ***Yes/No***  
***Whether Reportable*** : ***Yes/No***