

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

**CRM No.M-35344 of 2017 (O&M)
Date of Decision: September 22, 2017**

Sukhwinder Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.K.Saini, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. read with Article 227 of the Constitution of India for quashing the orders dated 27.01.2017 and 16.02.2017 passed by learned Judicial Magistrate Ist Class, Fatehgarh Sahib, whereby learned trial Court has closed the evidence of the prosecution by order without taking coercive steps to get the IO of the case produced for further examination in chief and cross-examination.

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

From the record, I find that as per order dated 27.01.2017 (Annexure P-4), learned JMIC, Fatehgarh Sahib closed the prosecution evidence as the prosecution failed to complete its entire evidence and further adjournment was declined. After this, an application was filed by

the prosecution under Section 311 Cr.P.C. for summoning ASI Lachman

Singh, Investigating Officer, in the instant case and learned trial Court dismissed the same by stating that if this application is allowed, then it would in fact, tantamount to review of order which is not permissible,

From the perusal of the impugned orders, I find that no illegality has been committed by the lower Court while declining further adjournment to the prosecution to lead evidence. It is in the order that challan in the present case was presented on 24.12.2014 and charge was framed on 13.01.2015. Since then, the prosecution has availed a number of effective opportunities. The witnesses were summoned through ordinary process as well as through warrants. It is further stated that despite issuance of effective process and availing sufficient number of opportunities, prosecution has failed to complete its entire evidence till date. On that day also, no PW was present. Therefore, the Court below held that no justification is made out to adjourn the matter any further for prosecution evidence.

At the time of arguments, learned counsel for the petitioner has not argued that sufficient opportunities have not been granted nor shown any document qua this fact. He argued that it is for the Court to take coercive steps to procure presence of witnesses.

From the perusal of the impugned orders, it is clear that learned trial Court has already issued warrants and if the Investigating Officer himself is not coming to the witness box, then the Court has rightly declined the further adjournment to the prosecution. Furthermore, the Court is not only to see the interest of the prosecution but also to see the interest of the accused that the trial should not remain pending for years together. The

the Court.

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

September 22, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No