

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

242

CRM-M-40263 of 2016

DATE OF DECISION: 03.08.2017

Manoj Kumar Aggarwal

... Petitioner(s)

Vs.

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Tapan Kumar, Advocate
for the petitioner.

Ms. Seena Mand, Deputy Advocate General, Punjab.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 24.10.2016 passed by the trial Court whereby his application for leading defence evidence with regard to DWs mentioned therein has been declined. Learned counsel for the petitioner contends that the impugned order is erroneous as Section 233 Cr.P.C. has not been taken into account.

Learned State counsel, however, contends that the trial is at its fag end and, therefore, the application has rightly been rejected.

Heard.

It is necessary to refer to Section 233 Cr.P.C., which is reproduced hereunder:

233. Entering upon defence.-

(1) Where the accused is not acquitted under section 232, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.

(2) If the accused puts in any written statement, the Judge shall file it with the record.

(3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of

justice.

It is manifest from a bare reading of Section 233(3) that an application for attendance of any witness preferred by the accused should ordinarily be allowed unless the Judge records reasons that it is vexatious, or intends to delay the trial or defeats the ends of justice.

A perusal of the order indicates that the trial Court has rejected the application only on the ground that another application of the accused is pending and allowing this application would in fact amount to allowing the other application which is pending.

However, learned counsel for the petitioner has contended that no decision has been taken on the first application of the petitioner.

I am satisfied that the impugned order has been passed without taken into consideration Section 233(3) Cr.P.C. No reason has been recorded as to whether this application is vexatious or meant to delay the trial or would defeat the ends of justice.

Consequently, this petition is allowed. The impugned order is set aside. The matter is remanded to the trial Court which shall decide the application of the petitioner for production of witnesses afresh in terms of Section 233 Cr.P.C.

August 03, 2017

jt

**(ANUPINDER SINGH GREWAL)
JUDGE**

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