

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40618-2017

Date of decision: 30.08.2017

Jaswinder Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. KS Derabassi, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through the instant petition under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 09.10.2017 (Annexure P-4) passed by the learned Judicial Magistrate Ist Class, Dera Bassi, District SAS Nagar, rejecting the application filed by the petitioner under Section 311 Cr.P.C., in case FIR No. 183 dated 03.10.2013 registered under Sections 406, 420 and 120-B IPC at Police Station Lalru, District SAS Nagar (Mohali).

2. Learned counsel for the petitioner contends that the instant case was prosecuted by the Public Prosecutor and when the petitioner-complainant came to know that he was not prosecuting the same properly, the petitioner engaged a private counsel and moved an application under Section 311 Cr.P.C., for examining SI Kuldeep Chand, who has partly investigated the case being a material witness to prove the prosecution case, to whom the Public Prosecutor, has given up without examining as

unnecessary witness.

3. I have given thoughtful consideration to the submissions made by learned counsel for the petitioner.

4. According to the petitioner, that SI Kuldeep Chand, had partly investigated the instant case, therefore, in the considered opinion of this Court, the said witness is very much essential for examination by the prosecution. The aforesaid SI Kuldeep Chand, should not have been given up by the Public Prosecutor as un-necessary, he being a material witness as he had investigated the case partly, therefore, the instant petition is accepted. The impugned order dated 09.10.2017 (Annexure P-4) is hereby set aside. The trial Court is directed to summon SI Kuldeep Chand and record his statement.

4. This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

October 30, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No