

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-41881-2017

Date of decision: 21.11.2017

Gulzar Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Atul Goyal, Advocate for
Mr. RK Handa, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through the instant petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 18.09.2017 (Annexure P-1) passed by the trial Court closing the prosecution evidence, in case FIR No. 71 dated 27.02.2013 registered under Sections 420, 465, 467, 468, 471 and 120-B IPC at Police Station Civil Lines Batala, District Gurdaspur.

2. In nutshell, the application of petitioner-complainant under Section 311 Cr.P.C. for examination of Bhag Singh, official of the office of DTO, Patiala and one Kanwaljit Singh, Manager, was allowed by the trial Court with a direction to conclude its evidence by the next date of hearing i.e. 18.09.2017, on which date the aforesaid prosecution witnesses were not present nor their summons were received back. Consequently, the evidence of the prosecution was closed by order.

3. Learned counsel for the petitioner contends that the petitioner may be afforded only one opportunity to examine the aforesaid witnesses.

The presence of Bhag Singh, official of the office of DTO, Patiala was not within the domain of the petitioner being a Government official, therefore, the trial Court ought to have procured his presence. In case, the aforesaid witnesses are not permitted to be examined, a grave prejudice would be caused to the petitioner, inasmuch, as a fraud of ₹ 36 lakhs has been committed by the accused with the petitioner.

4. Considering overall facts and circumstances, but without commenting upon the merits of the case, the impugned order dated 18.09.2017 (Annexure P-1) is hereby set aside. An opportunity is granted to the petitioner to examine the aforesaid witnesses namely; Bhag Singh and Kanwaljit Singh, at own responsibility, subject to payment of ₹ 10,000/- as costs to be deposited with the District Legal Services Authority, Gurdaspur.

5. The instant 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 a period of one month from today.

November 21, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No