

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

CRM-M No.5272 of 2017 (O&M)

Date of decision: 23.10.2017

Jasbir Singh

.... Petitioner

versus

State of Punjab & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Munish Gupta, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

Mr. Gaurav Goel, Advocate
for respondents No.2 & 3.

Hari Pal Verma, J.

The petitioner has filed the present petition under Section 482 Cr.PC seeking quashing of order dated 21.11.2016 (Annexure P-3) whereby the prosecution evidence has been closed by order.

Vide order dated 20.10.2016, learned Magistrate has passed the following order:

“Today case was fixed for prosecution evidence. No PW is present. Summons issued to PW Jasvir Singh and Charanjit Singh received back unserved. This Court is satisfied that PW Jasvir Singh and Charanjit Singh evading their service intentionally and their presence cannot be procured in this manner. As such they be summoned throughailable warrants in the sum of Rs.5,000/- with one surety in the like amount for 21.11.2016. Remaining PWs be also summoned for the date fixed, subject to last/final opportunity.”

Learned counsel for the petitioner has contended that as per the aforesaid order, the petitioner Jasbir Singh and Charanjit Singh are evading

their services intentionally whereas, on 30.04.2016 learned Magistrate has passed an order stating therein that the petitioner is present and has been cross-examined partly. Therefore, there is an inherent contradiction in the orders passed by the Magistrate. He further states that since the petitioner is the author of the FIR in all fairness two effective opportunities be granted to the petitioner to prove his case.

On the other hand, learned counsel for respondents No.2 & 3 has argued that ample opportunities were granted to the petitioner and vide order dated 30.04.2016 cross-examination of the petitioner was deferred to 01.06.2016 and the petitioner was bound down for that date, but still he did not appear to get him self cross-examined.

I have heard learned counsel for the parties.

Considering the fact that the petitioner is the complainant in the case, the possibility of delaying the charge is liable to be ruled out. However, for just decision in the case, the petitioner deserves to be granted two effective opportunities to conclude his evidence subject to payment of Rs.10,000/- as costs, which shall be deposited by him with the Punjab Legal Services Authority. It is made clear that deposit of costs of Rs.10,000/- would be a condition precedent to avail two opportunities to complete his evidence.

With the aforesaid observations, the present petition is disposed of.

(HARI PAL VERMA)
JUDGE

23.10.2017

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1.Whether speaking/non-speaking?

Yes/No

2.Whether reportable?

Yes/No

