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

**CRR-3465-2016
Date of Decision :30.08.2017**

Hardeep Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.G.S.Sirphikhi, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Onkar Singh Batalvi, Advocate
for respondent No.2.

Mr. A.D.S.Bal, Advocate
for respondent No.3.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 29.08.2016 passed by the trial Court in FIR No.150 dated 27.09.2008 under Sections 465, 217, 201, 471, 120-B IPC registered at Police Station City Batala, Police District Batala, vide which the prosecution evidence was closed.

Counsel for the petitioner has referred to the report of the summons dated 28.08.2016, summons issued to two prosecution witnesses Inspector Gurmit Singh, Incharge Finger Print Bureau Phillaur and Kulwant Singh, PPS, Deputy Superintendent of Police (D) Batala, where the process server has reported that Gurmit Singh had retired from the department and his residential address was not known and Kulwant Singh was served on his mobile number 9592914015 and thus the trial court was not justified in closing the prosecution evidence as one of the witness was duly served and

the service on the other could not be effected for want of correct address, though, at the relevant time both were the police officials.

Counsel for the petitioner has further referred to the order dated 29.03.2016 passed in CRR-3255-2015, while setting aside an earlier order dated 19.08.2015, closing the prosecution evidence, one opportunity was granted to the prosecution to take summons of all the witnesses dasti and produce them before the Court without any further delay.

Counsel for the petitioner submits that in pursuance to the said order on 29.08.2016, eight witnesses were examined and therefore, it was not the intention of the petitioner either to delay the trial or not examine the witnesses as due efforts were made to serve the aforesaid witnesses. Counsel for the petitioner has also referred to the judgment of this Court passed in **Omparkash vs. State of Haryana 2015 (3) RCR(Criminal)**, to submit that it is the duty of the prosecution to produce the witness before the Court in time to ensure that no undue delay is caused.

On the other hand learned State counsel has not opposed the prayer, however, counsel appearing for respondents No.2 and 3 submits that since only one opportunity was granted, no further opportunity should be granted to the petitioner.

It is apparent on record that petitioner-complainant in a bona fide manner is leading the prosecution evidence and on the date when the evidence of the prosecution was closed, one of the witness was served whereas the service on the other witness could not be effected as his address was not known and therefore it was not justified by the trial Court to close the prosecution evidence as the trial court should have adopted coercive method to procure the presence of the aforesaid witnesses.

In view of the same this petition is allowed and the order dated 29.08.2016 is set aside and the trial court is directed to afford one last effective opportunity to the prosecution to examine the aforesaid witnesses by procuring their presence in accordance with law.

The revision is allowed.

(ARVIND SINGH SANGWAN)
JUDGE

August 30, 2017

Sunil Devi

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