

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

CRR-1760-2017 (O&M)

Date of Decision: 14th September, 2017

KAILASH CHAND

...Petitioner

V/S

STATE OF HARYANA AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. Pardeep Goyal, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. Manoj Kumar Sood, Advocate
for respondents No. 2 and 3.

H.S. MADAAN, J. (Oral):

During the trial pending in the Court of Additional Session Judge, Faridabad, an application under Section 311 Cr.P.C was filed by the prosecution for calling Dr. Naveen Arichwal, which was not opposed by learned defence counsel as such, it was allowed and only one opportunity was granted to the prosecution to examine said Dr. Naveen Arichwal fixing the case for 25th April, 2017. However, since service of said Dr. Naveen Arichwal was not got effected, the trial Court observing that only one opportunity had been granted to prosecution to examine him, evidence of prosecution closed by order, which left the complainant aggrieved and he has approached this Court by way of present revision petition. Counsel for the petitioner contends that order under challenge be set aside and an opportunity be given to examine the said doctor.

The accused have put in appearance through counsel. The State

counsel is representing the State of Haryana during the course of arguments.

Learned counsel representing respondents No. 2 and 3 stated that he has no objection if one opportunity is granted to the prosecution to examine Dr. Naveen Arichwal, since earlier also on an application has been filed by the petitioner, the accused had pleaded no objection.

The State counsel has supported the contentions raised by learned counsel for the petitioner.

Under the circumstances, the revision petition is accepted, the impugned order dated 25th April, 2017 passed by Additional Sessions Judge, Faridabad, is set aside and complainant/prosecution is afforded one opportunity to examine Dr. Naveen Arichwal. It shall be responsibility of the complainant to cause appearance of said Dr. Naveen Arichwal in the Court for that purpose. He may take *dasti* summons and get assistance of the Court in getting the service effected, if need be. The trial Court shall examine the possibility of recording the statement through video conferencing also, if for any reason, Dr. Naveen Arichwal is unable to appear in the Court in person. The trial Court shall fix a date for recording statement of Dr. Naveen Arichwal giving time of at least one month to the complainant for that purpose.

Copy of this order be sent to the trial Court through District and Sessions Judge, Faridabad, for information and compliance.

(H.S. Madaan)
Judge

14.09.2017
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Whether speaking/reasoned: **Yes**

Whether Reportable: **No**