

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

CRR-696-2017

Date of Decision: 26th July, 2017

VISHAL

...Petitioner

V/S

STATE OF PUNJAB & ORS.

...Respondents

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

Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

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

During trial relating to FIR No. 111 dated 10.12.2010, under Sections 323, 324 read with Section 34 of Indian Penal Code, Police Station Cantt. Ferozepur, when prosecution witnesses were being examined, summons sent for service upon Dr. Lakhwinder Singh Chahal were received back unserved. The trial Court instead of taking appropriate measure to secure presence of this witness, directed that evidence of prosecution be closed by order. This was so done while passing the order dated 9th August, 2016.

Feeling aggrieved by the said order, the complainant has filed the present revision petition, notice thereof has been given to the respondents including accused but he did not put in appearance, whereas, State has appeared through Mr. K.S. Aulakh, DAG, Punjab.

I have heard learned counsel for the petitioner as well as learned State counsel besides going through the record.

The trial Court, on getting report on summons sent for service upon Dr. Lakhwinder Singh Chahal not served, should have taken suitable action including directing the processing agency to ensure service of said Dr. Lakhwinder Singh Chahal by the next date, may be by giving a short date. Dr. Lakhwinder Singh Chahal, having conducted the medical examination of the complainant and other injured, happened to be a crucial witness. Therefore, the impugned order, cannot stand judicial scrutiny and is set aside and Dr. Lakhwinder Singh Chahal, who is stated to be posted at CHC Baba Bakala, is allowed to be examined as a prosecution witness. Summons for the service be issued for a date, which is found suitable and appropriate by the trial Magistrate and it shall be responsibility of the police of Police Station Cantt. Ferozepur to get the service effected upon Dr. Lakhwinder Singh Chahal and ensure his appearance in the Court. The State counsel has been informed accordingly. The trial Magistrate shall do the needful within a week of receipt of copy of this order.

A copy of this order be given Dasti to the State counsel under signatures of the Special Secretary of this Court to enable him to do the needful.

(H.S. Madaan)
Judge

26.07.2017
Nisha-I

Whether speaking/reasoned: **Yes**

Whether Reportable: **No**