

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

Sr.No.122

CRM-M-19337-2018

Date of Decision:28.11.2018

Harjinder Singh

....petitioner

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Vikas Gupta, Advocate
for the petitioner

Mr.J.P.Ratra, DAG Punjab

ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for setting aside the order dated 30.04.2018 (Annexure P-1) passed by the trial Court, closing the evidence of the prosecution in FIR No.107 dated 13.05.2011 under Sections 419, 420, 465, 468, 471, 120-B, 511 IPC, registered at Police Station City Tarn Taran, District Tarn Taran.

On 07.05.2018, the following order was passed:

“ xx xx xx xx

Learned counsel for the petitioner submits that on an earlier occasion, the petitioner filed CRM-M-7459-2017, which was disposed of vide order dated 26.03.2018 (Annexure P-3) by issuing a direction to the trial Court to allow one effective opportunity to the prosecution for recording statement of PW6 Gurwinder Singh, SI/SHO. It was further directed that since this witness is an official witness, trial Court will ensure his presence in accordance with law.

Learned counsel for the petitioner further submits that

though the summons were issued to the aforesaid witness through Senior Superintendent of Police, Tarn Taran, however, this witness was not present on the date fixed by the trial Court and on that account, the prosecution evidence was again closed.

Notice of motion for 01.06.2018.

The Senior Superintendent of Police, Tarn Taran is directed to file an affidavit as to why the service of summons was not effected on the aforesaid witness despite the directions given by this Court on 26.03.2018 and the summons issued by the trial Court in compliance of the order dated 26.03.2018.

In the meantime, passing of the final order shall remain stayed.”

Affidavit of Senior Superintendent of Police, Tarn Taran, District Tarn Taran dated 01.06.2018 is on record. It is stated that the matter was got inquired through Deputy Superintendent of Police, Tarn Taran. As per the inquiry, it is found that summons were assigned to HC Jagjit Singh for getting the service of Inspector Gurwinder Singh, Ex.SHO, Police Station City Tarn Taran, presently posted in District Ludhiana. However, the concerned official did not get the service effected and the departmental inquiry has been initiated against him for negligence and carelessness.

In view of the same, learned counsel for the petitioner submits that it is apparent that in compliance of the order dated 26.03.2018, no serious efforts were made to effect the service of PW6 Gurwinder Singh, the then SI/SHO.

Learned State counsel, on instructions from ASI Gurmit Singh submits that the police will take necessary action for effecting the service of the concerned witness, if one more effective opportunity is granted.

In view of the same, this petition is allowed. The impugned order dated 30.04.2018 (Annexure P1) is set aside. The trial Court is directed to grant one more effective opportunity to the State. SHO Police Station City Tarn Taran

is directed to ensure that the service of the witness is effected for the date fixed by the trial Court. The trial Court will also ensure that the presence of the concerned witness is procured in accordance with law.

28.11.2018

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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No