

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

CRM-M-20998-2015

Date of decision : 25.09.2018

Balbir Singh

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr.Karan Sharma, AAG, Haryana.

Mr.Sandeep Kotla, Advocate for respondents No. 2 to 5.

KULDIP SINGH, J. (ORAL)

Challenge in the present petition is to order dated 01.05.2015 passed by learned JMIC, Pataudi by which application under Section 311 Cr.P.C. for recalling of investigation officer PW-6 ASI Chander Bhan to prove the FIR and for summoning of Dr.Rajvir, Radiologist to prove injuries suffered by the petitioner, was dismissed.

I have heard learned counsel for the petitioner, learned State counsel assisted by learned counsel for the respondents and have also gone through the file.

In order to prove its case, prosecution got as many as 20 opportunities and thereafter, learned APP for the State voluntarily closed evidence of the prosecution. Thereafter statements of accused under Section 313 Cr.P.C. were recorded. For the purpose of defence evidence, the

accused were granted three opportunities and thereafter the present application was moved. Learned trial Court has come to the conclusion that the present application has been moved to linger on the case. After going through the file, I am of the view that to prove the prosecution case, FIR is required to be formally proved which in this case was not done. Similarly, Dr. Rajvir is to prove the fracture on the cheek bone of the injured-petitioner. He was also not examined. This was negligence on the part of the prosecution for which the complainant should not suffer. Therefore, one opportunity is granted to prosecution to produce PW6-ASI Chander Bhan to prove the FIR and to produce Dr. Rajvir to prove fracture on the cheek bone of the petitioner by way of summoning him. It will be the duty of the prosecution to serve and produce the said witnesses and no further opportunity shall be granted.

Petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

25.09.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No