

Crl. Misc. No.M-38723 of 2018 (O&M)

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

**Crl. Misc. No.M-38723 of 2018 (O&M)
Date of decision : 19.09.2018**

Poonam Rani

.....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Deepak Arora, Advocate
for the petitioner.

**ANITA CHAUDHRY, J(ORAL)
CRM-33289-2018**

For the reasons set out in the application, same is hereby
allowed as prayed for and accompanying documents Annexure P-5 (Colly)
and Annexure P-6 (Colly) are allowed to be taken on record.

MAIN CASE

The petitioner assails the order passed on the application filed
under Section 311 Cr.P.C.

At the instance of the petitioner FIR No.231 dated 02.07.2013
was registered under Sections 323, 354, 406, 498-A, 506, 34 IPC. The trial
had commenced against the persons who were challaned and evidence of the
petitioner and some more witnesses had been recorded. Thereafter, the

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husband was arrested and charge was framed against him on 20.01.2017. The trial Court closed the evidence of the prosecution on 08.03.2018 and proceeded to record the statement of the accused and the case was fixed for defence evidence when an application was moved for permission to produce the complainant. The copy of the application was not placed on record and it is difficult to find out the date of filing. The trial Court dismissed the application noticing the fact that the summons, the bailable warrants and even the non-bailable warrants were issued from time to time against the petitioner but she did not bother to appear and the explanation offered was unsatisfactory.

On the last hearing, the petitioner was asked to place on record the zimni orders right from the date when the charge was framed against the husband. Those were taken on record.

I have heard the counsel for the petitioner at great length and have perused the documents placed on record.

The prosecution had closed its evidence as against the accused who had been challaned on 10.01.2017. Just prior thereto a supplementary challan was filed against the husband. The trial Court framed charges against the husband on 20.01.2017 and posted the case for evidence. Since the case was old, the trial Court was giving dates every month for examination of the witnesses. Bailable and non-bailable warrants have been issued against Appar Singh, Mithlesh, Hira Lal and Jagjit. The complainant all these time was represented by a counsel whose presence is noted even till 11.08.2017. Summons were issued to Poonam, Santosh and Jagjit. A report

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was received that they had been served through their relative i.e. brother's wife. Poonam failed to appear and non-bailable warrants were issued for 27.10.2017 and last opportunity was also granted. The non-bailable warrants issued against the witness were received with the report that service had been effected through the brother's wife. It is not in dispute that the petitioner was living with her father and brothers who live in the same house. The petitioner failed to appear even then and the trial Court again issued non-bailable warrants for 02.12.2017. The warrants were received by her father. Still she failed to respond. The non-bailable warrants were again issued for 22.12.2017. The order regarding last opportunity continued and the witnesses refused to turn up and the case was adjourned again and again and ultimately the evidence was closed on 08.03.2018 noticing the fact that despite issuance of non-bailable warrants the witnesses were not turning up and also striking a balance between the rights of the accused of speedy trial, the trial Court closed the evidence of the prosecution and listed the case for the statement of the accused on 13.03.2018. The statement of accused was recorded on 13.03.2018 and the case was posted for defence evidence and it is thereafter the application was moved.

The above would show that the petitioner was avoiding her appearance not for one or two dates but for almost eight months knowing fully well that the Court was summoning them. It had also used coercive methods. In the light of this, the petitioner is not entitled to any opportunity. The Court also noted that the order vide which the evidence was closed had also not been challenged and ordered that the prosecution cannot be given a

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time illimitable. No reasons could be given by the petitioner as to why she could not appear. There are no grounds to set aside the well reasoned order.

The petition is dismissed in limine.

18.09.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No