

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

CRM-M-39524-2015
Date of decision: 12.07.2018

Lachhman Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. A. Pathak, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

Mr. H. S. Dhandi, Advocate
for respondent No. 2.

None for respondent No. 3.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for setting aside the order dated 21.10.2015 (Annexure P-13), passed by Additional Sessions Judge, Ludhiana, vide which the evidence of the prosecution was closed.

Learned counsel for the petitioner submits that after allowing the application, filed by the prosecution under Section 311 Cr.P.C., vide order dated 03.07.2015, the statement of two witnesses, ie. Dr. Ashish and Dr. Ranjana Gupta, could not be recorded because a perusal of the subsequent orders, passed by the trial Court, would show that on one occasion, Dr. Ashish was present on 17.07.2015, however, his statement could not be recorded as the CT Scan record was not summoned from Ex-servicemen Contributory Health Scheme, BCHS Polyclinic, Ludhiana.

Subsequently, the service on the witnesses could not be effected either due to the fact that one of the accused, namely Jagdeep Singh, who was earlier declared a proclaimed offender, had put in appearance and a request was made on his behalf on 01.08.2015 and thereafter, again on 10.08.2015, the service of the summons could not be effected on these two witnesses. Similar orders were passed on 24.08.2015 and 21.09.2015 that the service could not be effected on these two witnesses.

Learned counsel for the petitioner submits that when the impugned order was passed on 21.10.2015 (Annexure P-13), closing the evidence of the prosecution, the Incharge, Police Station Dehlon, Ludhiana has requested the trial Court to give one more date as the staff of Police Station Dehlon was duty bound due to law and order situation in the area, as per Annexure P-12. However, the trial Court, without adhering to the request made by the police station concerned, closed the evidence, vide impugned order dated 21.10.2015 (Annexure P-13).

Learned counsel for the petitioner has further submitted that since both the witnesses are the official witnesses and their presence could not have been procured without the assistance of the process of Court, the complainant was not in a position to produce them at his own level.

In reply, learned counsel for respondent No. 2 has submitted that on 13.10.2015, i.e. a date prior to 21.10.2015, the trial Court has afforded the last opportunity to the prosecution and since no evidence was present, the evidence of the prosecution was closed on 21.10.2015.

After hearing learned counsel for the parties and perusing the record, I find merit in the present petition.

A perusal of the orders, passed subsequent to the order dated

03.07.2015 allowing the application filed under Section 311, shows that there was no lapse on the part of the petitioner/complainant and on one occasion even one witness was present, however, his statement could not be recorded on account of non-availability of CT Scan record and on another occasion, the case was adjourned on the request made by an accused, who was earlier declared a proclaimed offender and appeared before the Court on that date.

Later on, for effecting service on both the witnesses, a request for adjournment was made by the police station concerned that on account of law and order situation, their staff was duty bound and the trial Court in a haste closed the evidence without adhering to the request made by the SHO of the police station concerned.

In view of above, this petition is allowed and the impugned order dated 21.10.2015 (Annexure P-13) is set aside and one more effective opportunity is granted to the petitioner/complainant to conclude his entire evidence.

The trial Court is directed to ensure that the service of the summons is effected upon the said two witnesses and if need be, the Superintendent of Police, Ludhiana be also directed to ensure that the service of summons is effected on both witnesses. The petitioner/complainant is also given liberty to effect service on the said witnesses by way of *dasti* process.

July 12, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*