

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4734-2019
Date of decision: 01.02.2019

Harnek Singh

....Petitioner

Versus

Nirmal Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurinderjit Singh, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 14.01.2019 passed by the Chief Judicial Magistrate, Mohali, vide which the prayer to examine one witness Sunil Kumar as defence witness, was declined on the ground that since the case is fixed for defence evidence from 23.10.2018, the petitioner/accused is trying to delay the matter.

Learned counsel for the petitioner submits that the petitioner has concluded his defence evidence, however, only one witness remains to be examined, who could not be produced on the date, when the impugned order was passed.

After hearing learned counsel for the petitioner and considering the fact that the case pertains to the year 2015, which presupposes that the

complainant has taken long time in conclusion of his prosecution evidence, the petitioner has a legal right to lead his defence evidence and mere fact that on a date, when one of the private witness was not present, the trial Court should have granted at least one more opportunity to the petitioner to produce the said witness. By passing the impugned order, right of defence of the petitioner stands vitiated.

Since limited prayer of the petitioner is that he wants to examine one defence witness Sunil Kumar, I am not inclined to issue notice of motion, as in such eventuality, while staying the further proceedings, it will further delay in disposal of the case.

In view of the above, this petition is allowed and the trial Court is directed to grant one effective opportunity to the petitioner to record the statement of Sunil Kumar. This will however be subject to payment of costs of Rs.3,000/-, to the respondent at the time of recording the statement.

[ARVIND SINGH SANGWAN]
JUDGE

01.02.2019
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No