

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

**CRM No.M-12085 of 2014 (O&M)
Date of Decision: February 27, 2019**

Ajit Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.N.K.Manchanda, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

None for respondents No.2 to 3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Haryana, for quashing of impugned order dated 09.07.2013 passed by learned Chief Judicial Magistrate, Faridabad, vide which the evidence of the prosecution has been closed.

Notice of motion was issued. Learned State counsel appeared and contested the petition. However, none has put in appearance on behalf of respondents No.2 and 3, despite service.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that learned trial Court vide order dated

09.07.2013 closed the evidence of the prosecution by holding that several opportunities have already been granted to the prosecution to conclude its evidence and on that day, it was the last opportunity and further held that no ground for further adjournment is made out.

The perusal of the record shows that after the summoning of additional accused Ramesh Chand Bondwal, charges have been framed against him on 22.01.2013 and the case was fixed for prosecution evidence for 08.03.2013. In my view, after the summoning of additional accused, charge-sheet should have been served against all the accused and then, all the witnesses are to be examined afresh and if any witness is earlier examined, he/she is also to be examined after framing of the charge.

As per order dated 22.01.2013, the case was fixed for the first time after framing of the charge against additional accused, for 08.03.2013. On that day, Presiding Officer was on leave and case was fixed for 15.03.2013 for proper order. For the first time, the case was fixed for prosecution evidence for 03.04.2013. Then on 03.04.2013 i.e. first date for prosecution, the Court passed the order that *'No PW is present. Summons of PWs not received back served or unserved. Let all the remaining unexamined PWs be again summoned through special messenger for 17.5.2013. Last opportunity is granted. Intimation of last opportunity be sent to CP, Faridabad'*. As per order dated 17.05.2013, an application for exemption from personal appearance of accused was moved and case was adjourned for 09.07.2013 for evidence of the prosecution and it is stated that it shall be the last opportunity. On 09.07.2013, one PW was present and examined and even then, the Court closed the evidence of the prosecution.

From the perusal of the interim orders placed on record by

learned counsel for the petitioner, I find that reasonable opportunities were not granted by the trial Court to the prosecution and the order passed by learned trial Court is liable to be set aside.

Therefore, in the interest of justice and to give reasonable opportunities to the prosecution to produce the evidence, the present petition is allowed and the impugned order dated 09.07.2013 passed by learned CJM, Faridabad, is set aside.

The parties are directed to appear before the trial Court on 18.03.2019 and learned trial Court is directed to proceed with the case accordingly.

February 27, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No