

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1728 of 2012

DATE OF DECISION: FEBRUARY 13, 2019

GULZAR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. VENEET SHARMA, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER BENIWAL, AAG, PUNJAB.

MANOJ BAJAJ, J.

The petitioner has preferred this petition under Section 482 Cr.P.C. for setting aside the order dated 17.12.2011 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Amritsar whereby the application filed by the prosecution under Section 311 Cr.P.C. to summon the petitioner as a witness was dismissed.

Learned counsel for the petitioner contends that a fraud had been committed upon the petitioner by forging his signatures and a FIR No.87 dated 21.4.2004, under Sections 420, 468, 467, 471 IPC was registered at Police Station Majitha, Police District Majitha by a Special Power of Attorney, namely, Mandeep Singh. It has been contended that during trial, the petitioner being the aggrieved person was never called upon to adduce his evidence and no summons were received by him and the trial Court without affording any opportunity to the petitioner, erroneously closed the evidence of the prosecution.

Learned counsel for the State has referred to the reply filed by

the State wherein it has been admitted that the evidence of the prosecution was closed on 18.11.2011 without examining the petitioner and the application filed under Section 311 Cr.P.C. was dismissed.

Learned counsel for the parties have been heard and I find that there is no merit in this petition. The trial Court has rightly observed that the application is moved at a belated stage when the prosecution has already adduced its entire evidence. Not only this, after recording the statement of accused under Section 313 Cr.P.C., the defence has also concluded its evidence. The ground raised is that witness Gulzar Singh (petitioner) was never served and therefore, this witness remained unexamined, whereas various notices were issued to this witness who never appeared. Besides his attorney, namely, Mandeep Singh stands examined.

Petitioner was a prosecution witness and therefore, it was its duty to examine him. The argument that summons were not containing correct address is without any force as the address was to be given by the prosecution. No attempt was made by the prosecution through GPA Mandeep Singh (PW1) to produce the petitioner as witness. Considering the fag end of the trial and the opportunities granted to the prosecution to examine the petitioner, this Court does not find any illegality in the impugned order dated 17.12.2011 and resultantly, no inference is called for.

Petition is dismissed.

February 13, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No