

## IN THE HIGH COURT OF PUNJAB &amp; HARYANA AT CHANDIGARH

Crl. Misc. No. M-18059 of 2018

Date of Decision: February 01, 2019

Inderjit Singh

.....Petitioner

versus

Sukhdev Lal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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Present: Mr. Eklavya Kumar, Advocate  
for the petitioner

None for respondent No. 1

Mr. Anish Verma, Advocate for  
Mr. Sandeep Arora, Advocate  
for respondents No. 2 to 5

**Sudhir Mittal, J. (Oral)**

The petitioner is the complainant. He is aggrieved by order dated 18.04.2018 whereby his application under Section 311 Cr.P.C. has been dismissed and his pre-charge evidence has been closed by order.

A perusal of the impugned order shows that the reason for dismissal of the application under Section 311 Cr.P.C. as well as for closure of pre-charge evidence is that the complainant had availed more than forty effective opportunities.

Learned counsel for the petitioner submits that all the witnesses are official witnesses and they have to produce the official record. The zimni order indicates that despite service the witnesses are not appearing and althoughailable warrants of arrest have been issued, the police has failed to produce them in Court. Even non-bailable warrants of arrest remained un-executed. Thus, the petitioner can not be blamed for the delay. The Court is required to enforce its order and

on account of its inability to do so the case of the petitioner can not be prejudiced.

Thus, the impugned order deserves to be set aside.

Learned counsel for the private respondents submits that the petitioner has availed more than forty opportunities as is evident from the impugned order. The zimni order shows that bailable warrants were issued by the trial Court yet, the petitioner was unable to produce the witnesses and, therefore, the trial Court was justified in passing the impugned order.

The record of the case indicates that all the witnesses are official witnesses and they have to produce the official record. The trial Court has issued bailable warrants and non-bailable warrants to secure their presence but has been unable to enforce its directions. Thus, the case of the petitioner can not be prejudiced on account of the inability of the trial Court to enforce its orders. The impugned order is unjustified and is, accordingly, set aside.

The petition is allowed. The trial Court is directed to ensure that CW-3, CW-4 and the complainant are examined within four weeks from the date of receipt of certified copy of this order. The police shall ensure production of CW-3 and CW-4 before the trial Court alongwith relevant record as and when directed by it.

February 01, 2019  
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**[SUDHIR MITTAL]**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**  
**Whether Reportable : Yes/No**