

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

CRM-M-29422-2016 (O&M)

Date of decision : 18.11.2019

Ramesh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.K. Ganga, Advocate for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. Saurabh Garg, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Challenge is to the order passed by the learned Court of Sessions remitting the case back to the Magistrate while permitting respondent No.2 to appear as prosecution witness.

In the present case, first informant-Amit Thakral had lodged the FIR. When he appeared in evidence in support of the prosecution, he did not support the case of the prosecution. Summons sent to respondent No.2-injured were returned with a note "not found residing at the given address". However, the Prosecuting Agency did not make sincere attempt to find out the correct address of respondent No.2-injured resulting in closure of evidence and acquittal of the petitioner herein. In appeal, which was filed by the injured, the Court found that respondent No.2 had already shifted from

the address given in the criminal case. Therefore, the Court while exercising its powers under Section 391 Cr.P.C., ordered that petitioner should be permitted to appear on behalf of the prosecution and thereafter the Court should re-decide the matter. The Court found that the Prosecuting Agency as well as learned Magistrate ought to have made some attempt to find out the correct/changed address of the petitioner.

Keeping in view the aforesaid facts, this Court is not inclined to interfere in the order of remand. However, keeping in view the facts of the case, learned Magistrate is directed to decide the criminal case pending before it within a period of 3 months.

In view of the above, the present petition is disposed of.

18.11.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No