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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CrI. Misc. No. M-37721 of 2014 (O&M)  
Date of Decision: February 08, 2019

Ranbir Singh

.....Petitioner

versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL**

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Present: Mr. Sandeep Wadhawan, Advocate  
for the petitioner  
Mr. Kirat Singh Sidhu, DAG Punjab  
Mr. Amit Dhawan, Advocate  
for the applicant

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

The petitioner seeks quashing of order dated 24.09.2014 (Annexure P-9) as well as order dated 30.09.2014 (Annexure P-10) whereby the trial Court has closed the evidence of the prosecution by order and has rejected an application moved by the prosecution under Section 311 Cr.P.C. respectively.

Learned counsel for the petitioner submits that in this case originally charges were framed on 09.02.2008 but the medical evidence on record had been over looked and, thus, the trial Court amended the charge vide order dated 26.10.2013 adding Section 326 IPC. The accused challenged the order dated 26.10.2013 by way of revision petition and proceedings before the trial Court were stayed till 31.03.2014. On the said date, an application moved by the prosecution under Section 319 Cr.P.C. was allowed and an additional accused was summoned for 05.05.2014, on which date charges were framed afresh and *de novo* trial commenced. Thus, it is submitted that the delay can not be attributed to the prosecution or the complainant and the trial Court was in error in closing the

prosecution evidence by order as well as rejecting the application under Section 311 Cr.P.C. whereby two doctors are sought to be examined in support of the medical evidence on record.

I have heard learned counsel for the parties and with their assistance perused the record.

Vide order dated 24.09.2014 (Annexure P-9), learned trial Court closed the prosecution evidence on the ground that numerous effective opportunities had been availed by the prosecution but it had failed to conclude its evidence. In view of the submissions made by learned counsel for the petitioner, which have remained un rebutted, the aforementioned reasoning can not be accepted. The prosecution cannot be blamed for delay in the trial and full opportunity has to be granted to establish its case against accused persons. Order dated 30.09.2014 (Annexure P-10) shows that the application under Section 311 Cr.P.C. was rejected because the witnesses sought to be summoned through the said application had been summoned nine times by the Court but on two occasions the summons had been received back unserved. Thus, the trial Court held that the prosecution had failed to procure their service and being an old case the application deserves to be dismissed. This reasoning also is not acceptable because the complainant can not be made to suffer on account of the slackness of the prosecution. If crucial witnesses remain unserved, it was the duty of the Court to get them served and secure their presence through coercive means. Another reasoning that the case was an old one can never be a ground to deny reasonable opportunity to the complainant and prosecution to lead its evidence. Such an approach would lead to violation of principles of nature justice as well as the statutory right to lead evidence by a party in support of its case.

The petition is, thus, allowed and impugned orders dated 24.09.2014

directed to appear before the trial Court on 28.02.2019, on which date the trial Court shall issue summons for examination of Dr. Ashok Bhagat and Dr. H.S. Kahlon and shall proceed in accordance with law.

In view of the fact that the main case already stands disposed of, an application (CRM-4198-2019) has been rendered infructuous and is disposed of as such.

February 08, 2019

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**[SUDHIR MITTAL]**  
**JUDGE**

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

**Whether Reportable : Yes/No**