

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41730 of 2018

DATE OF DECISION: JULY 3, 2019

ROBIN GARG

...PETITIONER

VERSUS

STATE OF PUNJAB & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. AMAN DHIR, ADVOCATE
FOR THE PETITIONER.

MR. HITEN NEHRA, ADDL.A.G. PUNJAB.

MR. LALIT SHARMA, ADVOCATE
FOR RESPONDENTS NO.2 & 3.

MR. HARKIRAT SANDHU, ADVOCATE
FOR RESPONDENTS NO.4 & 5.

MANOJ BAJAJ, J.(ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing the order dated 21.3.2018 (Annexure P-3) passed by learned Addl. Chief Judicial Magistrate, Sangrur in case FIR No.133 dated 25.8.2013, under Sections 420, 467, 468, 471 IPC, registered at Police Station Bhawanigarh, District Sangrur, whereby the evidence of the prosecution was closed as well as the order dated 21.3.2018, passed by learned Addl. Sessions Judge, Sangrur whereby the revision petition filed by the petitioner as well as the State challenging the order passed by the trial Court was dismissed.

Learned counsel for the petitioner contends that the complainant was posted in Himachal Pradesh and therefore, could not appear pursuant to the summons issued by the trial Court. It is contended that in all 10 witnesses have already been examined and in case the

petitioner/complainant is not allowed to depose in support of his case, he will suffer irreparable loss. It is further contended that the trial Court has proceeded to pass the extreme order of closure of prosecution evidence and the said order was erroneously upheld by the revisional Court.

The prayer is opposed by the counsel appearing on behalf of the accused. Learned counsel for the accused has contended that 38 opportunities were given to the prosecution for conclusion of the evidence. There were justifiable reasons for the Court to order the closure of prosecution evidence.

At this stage, learned counsel for the petitioner contends that in case only one opportunity is granted to enable him to examine himself as prosecution witness besides, the handwriting expert, no prejudice is caused to the accused who shall be cross-examining the witness.

Considering the above, this Court finds that the absence of the complainant as a witness before the Court cannot be attributed to him alone. Apparently, it was careless approach by the prosecution and if opportunity to the complainant is denied, it may adversely affect the prosecution case, particularly when the trial is at an advanced stage.

Therefore, the petition is allowed and the impugned order is set aside. It is directed that the trial Court shall afford one effective opportunity to the complainant to conclude his evidence. It shall be the responsibility of the complainant to bring his witnesses.

July 3, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

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