

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

**Criminal Misc. No.M-8335 of 2015 (O&M)
Date of Decision: November 15, 2019**

Daljit Singh Dhingra

.....PETITIONER(s).

VERSUS

State of Punjab and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jai Bhagwan, Advocate
for the petitioner (s).

Mr. Rakeshinder Singh Sidhu, A.A.G. Punjab.

None for private respondents.

SURINDER GUPTA, J.

Petitioner seeks quashing of order dated 23.02.2015, whereby evidence of prosecution was closed by the trial Court by order.

Learned counsel for the petitioner submits that lapse was on the part of prosecution in not producing evidence. The petitioner being complainant is victim and should not be made to suffer for the lapse on the part of prosecution.

Before proceeding further, it will be relevant to take note of certain facts:-

(i) FIR was registered on 07.06.2007;

(ii) Challan was presented on 20.11.2008;

(iii) Learned trial Court has allowed 27 effective opportunities to

the prosecution, which included last and final opportunity;

(iv) Despite granting of so many opportunities, prosecution failed to conclude its evidence and had also not been able to come up with any explanation in concluding the evidence despite granting ample opportunities.

Perusal of the orders shows that one of the witness Patwari Rajwinder Singh had gone abroad. Here, learned counsel for the petitioner submits that copy of jamabandi was required to be proved from this witness. Jamabandi is a document, which is per se admissible in evidence, as such, the fact of tendering of jamabandi instead of examining the witness could be explored by the prosecution.

The other witnesses Daljit Singh and Kesar Singh, Manager could not be served for want of their correct address. It is nowhere case of the complainant that he or prosecution had ever supplied their correct address to the Court. DSP Manmohan Singh had not appeared and his summons were received back unserved.

I agree with the submission of learned counsel for the petitioner that petitioner is a victim and he should not be allowed to suffer due to lapse on the part of prosecution but at the same time, similar proposition applies for the accused, who have been facing trial for the last 7 years when the evidence was closed by order and for the last 11 years till date. There has to be some limit to the number of adjournments allowed to the prosecution to conclude its evidence. The Court has to draw balance between the agony of complainant and accused. The accused could not be made to suffer for indefinite period only on the ground that prosecution is not producing and

concluding the evidence. The trial Court has granted ample (27 effective) opportunities before it was constrained to conclude the evidence by order. I find no reason to interfere with the well-reasoned discretion exercised by the trial Court while concluding the evidence of prosecution.

This petition has no merits. Dismissed.

November 15, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

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

Whether Reportable: ***Yes/No***