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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49448-2017

Date of Decision : May 01, 2019

Mukesh Luthra

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. R.S. Bains, Advocate,
for the petitioner.

Mr. Ashish Sanghi, DAG, Haryana,
for respondent-State .

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for providing opportunity for recording of statement of petitioner under Section 313 Cr.P.C. to explain all the incriminating circumstances as statement recorded on 9.11.2017 was already typed one and the petitioner was just asked to sign the same without providing any opportunity to explain or put his defence.

2. Learned counsel for the petitioner contended that the petitioner was made to sign already typed statement of accused under Section 313 Cr.P.C. and he was not allowed any opportunity to give reply to the questions put to him and as such, his statement be recorded afresh.

3. Learned State counsel opposed the present petition on the

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ground that the statement of the accused under Section 313 Cr.P.C. was recorded in the presence of his counsel on 9.11.2017 and thereafter the matter was adjourned to 17.11.2017 for defence evidence. On that date, no defence evidence was adduced and the matter was adjourned to 27.11.2017 on which date, again accused failed to conclude his defence evidence and last opportunity was given to the accused to produce his defence evidence. On the adjourned date, i.e., 6.12.2017, two defence witnesses were examined and the matter was adjourned to 7.12.2017. On 7.12.2017, one defence witness was examined and the matter was adjourned to 12.12.2017, on which date, one defence witness was examined and the matter was adjourned to 18.12.2017 and at that stage, the present petition was filed. If at all, the petitioner was aggrieved of recording of his statement under Section 313 Cr.P.C. on 9.11.2017, he should have taken the objection on the same date or on 17.11.2017, the next date fixed in the case, but no such plea was taken. Present petition is without any merit and the same be dismissed.

4. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that the statement of the petitioner Section 313 Cr.P.C. was recorded on 9.11.2017 and the matter was adjourned to 17.11.2017. Thereafter, on 17.11.2017, no defence evidence was adduced and the matter was adjourned to 27.11.2017 on which date, again accused failed to conclude his defence evidence and last opportunity was given to the accused to produce his defence evidence. On the adjourned date, i.e., 6.12.2017, two defence witnesses were examined and the matter was

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adjourned to 7.12.2017. On 7.12.2017, one defence witness was examined and the matter was adjourned to 12.12.2017 on which date, one defence witness was examined and the matter was adjourned to 18.12.2017 and at that stage, the present petition was filed. In this way, the petitioner was given 5 opportunities including 'last opportunity' declared for the purpose on 7.12.2017. If the petitioner was aggrieved of recording of his statement under Section 313 Cr.P.C. on 9.11.2017, he should have taken the objection on the same date or on 17.11.2017, the next date fixed in the case. The plea taken by the present petitioner that accused was made to sign a pre-typed statement is not acceptable and the present petition is absolutely without any merit.

5. The present petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 01, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes