

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

207

CRM-M-6979-2018.

Date of Decision: 17.07.2019.

Jai Parkash

....Petitioner.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Munish Mittal, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Haryana.

Shekher Dhawan, J.

Present petition under Section 482 of the Criminal Procedure Code (for short, 'Cr.P.C.') is challenge to the order dated 18.12.2017 (Annexure-P1) passed by learned Judicial Magistrate Ist Class, Indri and judgment dated 03.02.2018 (Annexure-P3) passed by learned Additional Sessions Judge, Karnal, whereby the order dated 18.12.2017 passed by learned Magistrate was affirmed.

Learned counsel representing the petitioner, who is the complainant in this case, has contended that learned trial Judge failed to exercise the powers vested in it and Deepender Rana, who was earlier ordered to be produced against bailable warrants had not come present in the Court and the Court passed the order, thereby closing the prosecution evidence and effective opportunities were not given to lead the prosecution

evidence. Learned Additional Sessions Judge also affirmed the said order without considering the above material.

Learned State counsel, while arguing on this point, on instructions from ASI Padam Singh, contended that the prosecution has already led the entire evidence including statement of Investigating Officers, namely Shamsher Singh and Sushil. Deepender Rana, SI/SHO was just a formal witness, who had presented and forwarded report under Section 173 Cr.P.C. and the same was proved as per statement of Investigating Officer as well and, as such, no case is made out for setting aside the order passed by learned trial Judge and the same has rightly been affirmed by learned Additional Sessions Judge.

Having considered the above facts and legal points involved in the case, it is beyond doubt that prosecution and complainant has got the right to prove the prosecution case by availing effective adjournments. In case material prosecution witnesses, especially official witnesses failed to appear in the Court, in all fairness, the Court should not close the prosecution evidence, but insist to procure the presence of witnesses by exercising powers by issuance of process of warrants and even attachment of salary of the official witnesses. But in case the prosecution has already availed effective opportunities and material witnesses have already come and deposed before the Court, the Court cannot ignore the rights of speedy trial of the accused as well. As such, learned trial Judge, while considering that all the material witnesses have already been examined and prosecution had already availed 23 effective adjournments in this case, there was nothing wrong in the order passed by learned Judicial Magistrate Ist Class.

Rather learned trial Judge rightly passed the order dated 18.12.2017 which has been duly affirmed by learned Additional Sessions Judge.

In view of the above, the present petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

17.07.2019
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No