

Sr. No.120

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

CRM-M-29143-2019

Date of decision:12.07.2019

Dutt Pal Kapoor

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Gurcharan Dass, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing the Orders dated 04.07.2019, at Annexure P-2, passed by the Court of Judicial Magistrate Ist Class, Ludhiana, whereby the evidence of the petitioner has been closed by the Order of the Court and the Order of the even date at Annexure P-1 whereby the application moved by the petitioner under Section 311 Cr.P.C for summoning the witnesses has been dismissed.

It is contended by learned counsel for the petitioner that after the case was finalised upto the stage of summoning, by availing revisions by the defence, the pre-charge evidence was started in the year, 2017. However, the charge in the case was framed only on 15.05.2019. After framing of the charge as well, petitioner intended to produce his evidence before the Court but unfortunately he suffered spine injury. Therefore, neither he could himself appear as a witness nor could he produce his other evidence. Although, the Trial Court had been kind enough to exempt personal appearance of the complainant/petitioner on some dates, however, ultimately, vide impugned orders the evidence of the complainant has been

closed and even the application moved by the petitioner under Section 311 Cr.P.C has been dismissed, denying him the opportunity to bring on record the evidence of the complainant. Hence, the Trial Court has committed material irregularity and perversity in passing the Order. Therefore, it is prayed that the petitioner be granted some more opportunity to lead his evidence. Still further, it is submitted that the petitioner, being complainant, is making efforts to bring the trial to the conclusion; for the past 11 years, however, so far trial could not be concluded. It is further submitted that, in any case, after framing of the charge, the petitioner has availed only 3 opportunities and even on those three dates, the petitioner was prevented from appearing as witness and from producing his evidence; by the reasons beyond his control. Hence the petition be allowed and the petitioner be granted opportunity to lead evidence in support of his complaint.

Having heard the learned counsel for the petitioner and perusing the case file, this Court finds that the Trial Court has given reasons for closing the evidence of the petitioner. It has been recorded by the Trial Court that the petitioner has availed as many as 31 opportunities to prove his case. However, he has not completed his evidence so far. The Trial Court has also recorded that earlier the petitioner was granted last opportunity as well. However, even that did not make the petitioner move. It is also borne out from the record that the complaint pertains to the year 2008 and it is still at the stage of evidence of the complainant. However, the Court of law is not supposed to continue a case for eternity. This Court also is of the considered opinion that the petitioner has already been granted sufficient opportunities to conclude his evidence in support of his complaint.

Therefore, this Court does not find any illegality or perversity in the Order passed by the Trial Court, warranting any inference with the same, so far as the merits of the case are concerned.

However, since the petitioner has brought on record documents pertaining to his injury, which can be prohibiting in the nature, therefore, despite the fact that the petitioner has shown laxity in his effort to conclude the evidence earlier, it would not be unjustified that if he is granted two more opportunities to complete his entire evidence, whatever he wants to lead, however, by putting him to some appropriate financial burden.

In view of the above, the present petition is disposed of with a direction to the Trial Court to grant to the petitioner two effective opportunities to complete his entire evidence, however, subject to payment of Rs.10,000/- as costs. It is further ordered that the amount of costs shall be deposited with the District Legal Services Authority, Ludhiana.

It is further clarified that the petitioner shall be granted the opportunity to lead the evidence only after he produces the receipt of having deposited the costs as ordered above.

12th July, 2019

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*