

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-34637 of 2019

Date of Decision: 27.08.2019

Pawan Kumar

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Gurcharan Dass, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition under Section 482 Cr.P.C. for quashing of order dated 12.07.2019 (Annexure P1), passed by the learned Judicial Magistrate Ist Class, Ludhiana, whereby the evidence of prosecution was closed by order and also order dated 20.07.2019 (Annexure P2), whereby application under Section 311 Cr.P.C., filed by the petitioner in case FIR No. 76 dated 13.04.2011, registered under Sections 406, 420 & 120-B IPC at Police Station Sahnewal, District Ludhiana, was dismissed.

Learned counsel for the petitioner contended that petitioner, who is complainant in the above said FIR, contended that the learned trial Court has failed to exercise the powers vested in it and the prosecution witnesses, namely Pawan Kumar, Mukesh Kumar, Lakhvir Singh, Sanjiv Kumar, Anil Kumar (Patwari), Narinder Kumar, Assistant Sub Inspector were ordered to be produced through non-bailable warrants, but they did not

come present in the Court and therefore, order has been passed whereby

prosecution evidence was closed by order without granting effective opportunities to it.

Having considered the above facts and legal points involved in the case, it is beyond doubt that prosecution and complainant have 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. However, in this case, the learned trial Judge had decided the application under Section 311 Cr.P.C. taking into consideration that prosecution had already availed 23 effective adjournments in the case and accused had already faced the protracted trial. Needless to say that right to speedy trial is an important right of the accused and the learned trial Judge has rightly dismissed the application under Section 311 Cr.P.C. taking into consideration all these facts. Thus, there is no ground to set aside the impugned orders dated 12.07.2019 (Annexure P1) and 20.07.2019 (Annexure P2), respectively.

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

(Shekher Dhawan)
Judge

August 27, 2019
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No