

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

205

CRM-M-28441-2016 (O & M)  
Date of Decision:07.03.2019

Naresh Kumar Jain

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Harsh Aggarwal, Advocate  
for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

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**MANOJ BAJAJ, J.**

This petition has been filed by the petitioner to challenge the order dated 29.07.2016 (Annexure P-3), whereby the learned trial Court proceeded to close the evidence of the prosecution on the ground that no PW is present, though the PW is served.

Learned counsel for the petitioner contends that Jatinder Singh Khaira (PW-6) is an essential witness, who had appeared before the Court and his examination-in-chief stands recorded. The Court proceeded to dismiss the application under Section 311 Cr.P.C. on the ground that the summons issued to the witness were served, however, he had failed to appear and even the bailable warrants were issued, however, the witness did not appear before the Court till 29.07.2016 when the evidence was closed.

After hearing the learned counsel for the parties and examining the impugned orders passed by the learned trial Court, this Court is of the opinion that the conduct of the witness is irresponsible, who has shown no

respect to the Court and the summons issued by it. In such a situation, the Court is not supposed to feel handicapped and is well within its power to take coercive steps to ensure the presence of the persons required before it. If the summons and bailable warrants were not effective, the order is not proving the factum for presence of a witness and the Court can adopt further strict measures for appearance of a witness.

Reply on behalf of the State has already been filed, which has further revealed the steps taken by the Court to secure the presence of this witness. However, at the same time, Kuldeep Singh Chahal, IPS, Senior Superintendent of Police, SAS Nagar (Mohali) has tendered his unconditional and unqualified apology with an undertaking to comply with the direction issued by the Court.

Considering the above and the fact that the examination-in-chief of PW-6 is already recorded, the cross-examination of this witness is necessary which is being delayed only on account of the absence of PW-6. Resultantly, the impugned orders are set aside and the learned trial Court is directed to take effective steps to ensure presence of this witness positively before the trial Court and offer the said witness for cross-examination to the defence.

Disposed off.

07.03.2019

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**(MANOJ BAJAJ)**  
**JUDGE**

Whether Speaking/Reasoned: Yes/No  
Whether Reportable : Yes/No