

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

CRM-M-5261-2019

Date of Decision:-20.07.2022

Lt. Col. Ashwani Kumar.

.....Petitioner.

Vs.

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Nikhil K. Vashist, Advocate for the Petitioner.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

Mr. Tarun Singla, Advocate for respondent no.2
alongwith respondent no.2 in person.

JASJIT SINGH BEDI, J.(ORAL)

The present petition under Section 482 Cr.PC has been filed for setting aside the order dated 11.01.2019 (P-2) passed by the learned Judicial Magistrate Ist Class, Phillaur vide which the prosecution evidence has been closed with a further prayer seeking issuance of directions for the grant of one more opportunity to examine the remaining prosecution witnesses in case FIR No.213 dated 18.10.2016 under Sections 406, 420 IPC registered at Police Station Phillaur, District Jalandhar, Punjab.

The brief facts of the case are that the petitioner who is the complainant in aforementioned FIR has challenged the impugned order dated 11.01.2019 (P-2) stating that the prosecution evidence has been closed without any justifiable reason and he seeks one more opportunity for

examining all the remaining prosecution witnesses in the said case as otherwise he shall suffer irreparable loss.

This matter had come up for hearing on 04.02.2019 on which date further proceedings before the trial Court were stayed.

Today the matter has been taken up for final hearing and the counsel for the complainant on instructions from the complainant-respondent no.2 who himself is present in Court and has filed a photocopy of his Aadhaar Card, states that he has no objection if one opportunity is afforded to the petitioner-complainant to lead his remaining prosecution evidence as per the prayer made in the present petition and the present petition can be allowed.

The Counsel for the State in the light of the oral statement of the complainant and his counsel also submits that one opportunity may be granted to the petitioner-complainant to examine his remaining prosecution evidence.

I have heard learned Counsel for the parties.

In the present case, the investigation was completed on 27.12.2016 and the charges were framed against Balram Sharma-respondent no.2/accused on 02.08.2017. After that 14 prosecution witnesses were to be examined and reference is made in para nos.4 & 5 of the petition as to how and in what manner some of those witnesses were examined.

Be that as it may, the prayer of the petitioner-complainant is only to the extent of seeking one opportunity to examine his remaining witnesses. This prayer has been acceded to by the respondent no.2 in person as identified by his counsel.

In view of the above, the present petition is allowed. The

impugned order dated 11.01.2019 (P-2) passed by the learned Judicial Magistrate Ist Class, Phillaur whereby the evidence of the prosecution was closed is quashed and one more opportunity is granted to the complainant to examine all his prosecution witnesses in terms of the prayer made in the present petition.

The parties are directed to appear before the Trial Court on 08.08.2022 on which date the Trial Court shall, on a mutually agreed date allow the complainant an opportunity to examine the witnesses as set out in the present petition.

(JASJIT SINGH BEDI)
JUDGE

July 20, 2022

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>