

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

**CRM-M No.2914 of 2017
Date of Decision: 06.09.2022**

Kamlesh

.....Petitioner.

Versus

Jeetpal @ Jeetram and others

.....Respondents.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Argued by:- Ms. Kajal Sandher, Advocate, appearing for
 Mr. Vivek Gupta, Advocate
 for the petitioner.

Mr. Sanjeev Kumar Panwar, Advocate
for the respondents.

MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner-complainant (here-in-after to be referred as 'the complainant') seeks the quashing of the order dated 07.09.2016 (Annexure P-5) handed down by learned Judicial Magistrate 1st Class, Palwal, closing her pre-charge evidence in the Criminal Complaint Case bearing No.246 dated 03.09.2013, as filed by her against the respondents-accused (here-in-after to be referred as 'the accused'), under Sections 323, 325, 452 and 506 read with Section 34 IPC, and also of the order dated 11.01.2017 (Annexure P-1), passed by learned Additional Chief Judicial Magistrate, Palwal whereby the above-mentioned

case has been adjourned for consideration on the point of framing of the charge.

2. Shorn and short of unnecessary details, the facts culminating in the filing of the present petition, are that vide the order dated 17.10.2015 (Annexure P-2) passed by the trial Court in the afore-said complaint case, the accused were summoned to face the trial for committing the offences under Sections 148, 149, 323, 452 and 506 IPC with the observation that no offence under Section 325 IPC was made out against them and they (accused) appeared before the trial Court in pursuance of the said order. Then, the case was adjourned for recording the pre-charge evidence but however, vide the impugned order Annexure P-5, the pre-charge evidence of the complainant had been closed while observing that five (05) effective opportunities had already been granted to her for the above-said purpose. Vide the impugned order Annexure P-1, the trial Court adjourned the case for consideration on the point of framing of the charge.

3. I have heard learned counsel appearing for the petitioner-complainant as well as learned counsel for the respondents-accused in the instant petition and have also perused the file carefully.

4. Learned counsel appearing for the complainant has contended that the counsel for the complainant in the trial Court, had informed her that the Presiding Officer would be on leave on 07.09.2016 and hence, the case would be adjourned and therefore, she remained under the impression that her pre-charge evidence would not be recorded on the said date but the impugned order Annexure P-5 qua the closure of her pre-charge evidence

was passed on that day and moreover, even vide the order dated 13.12.2016 (Annexure P-4) also, the case had been adjourned to 11.01.2017 for recording her pre-charge evidence and therefore, she came to know about the impugned order Annexure P-5 on 11.01.2017 only when the witnesses, intended to be examined by her in her pre-charge evidence, were present in the Court but the case had been adjourned for consideration on the point of framing of the charge vide the impugned order Annexure P-1 and in these circumstances, only one more opportunity be granted to the complainant to conclude her pre-charge evidence.

5. Per contra, learned counsel for the accused has argued that the complainant had failed to conclude her pre-charge evidence despite having been afforded as many as five opportunities for this purpose and it being so, it is explicit that both the impugned orders have rightly been passed and hence, this petition deserves dismissal.

6. Though it has been observed in the impugned order Annexure P-5 that the complainant had availed five effective opportunities to adduce her pre-charge evidence but however, it is worth-while to mention here that it has also categorically been mentioned therein that the Presiding Officer of the trial Court was availing 'Child Care Leave' during the period from 05.09.2016 to 04.12.2016 and therefore, the case file had been put up before Judicial Magistrate 1st Class, Palwal on that day, i.e 07.09.2016, in compliance of the order passed by learned District and Sessions Judge, Palwal. Further, even vide the order Annexure P-4 passed thereafter on 13.12.2016 also, the said case had been adjourned to 11.01.2017 for the

pre-charge evidence. These facts and circumstances, thus, corroborate the above-discussed contention as raised by learned counsel appearing for the complainant in the present petition.

7. As a sequel to the fore-going discussion, this Court is of the considered opinion that it would be in the fitness of the things and the ends of justice will also best be served in case the petitioner-complainant is granted/afforded one more effective opportunity to conclude her pre-charge evidence but subject to the payment of Rs.10,000/- as cost.

8. Resultantly, the petition in hand stands allowed accordingly.

9. The parties, through their respective counsel, are directed to appear before learned trial Court on 26.09.2022.

September 06, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>