

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

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CRM-M-7586-2023

Date of Decision : 14.02.2023

Baljinder Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.G. S. Jagpal, Advocate
for the petitioner.

Mr. Amish Sharma, Asstt. A.G., Punjab.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of order dated 19.12.2022 (Annexure P-5) whereby JMIC, Ludhiana has dismissed the application of the petitioner under Section 311 Cr.P.C. seeking examination of Dr.Navjot Kumar.

The brief facts of the case are that on the statement of the petitioner, an FIR No.62 dated 15.07.2013 came to be registered at Police Station Sudhar, under Sections 323, 341, 342, 354, 357, 427, 506, 148, 149 of IPC. The police conducted investigation and thereafter filed its report under Section 173 Cr.P.C. on 21.07.2014. The charges came to be framed on 28.01.2015. The trial Court granted 30 opportunities to prosecution to lead its evidence. The prosecution led its evidence and trial Court vide order dated 11.11.2022 closed the evidence of the prosecution. After passing of order of closure of evidence, the petitioner moved an application under Section 311 Cr.P.C. seeking summoning of Dr. Navjot Kumar, Civil

Hospital, Ludhiana. The trial Court after considering the allegation of the petitioner as well as the facts of the case, vide impugned order dated 19.12.2022 has dismissed the application of the petitioner.

Learned counsel for the petitioner contends that the petitioner is a widow lady and she was dependant upon the prosecuting agency. The examination of Dr. Navjot Kumar is material for the just decision of the case, thus, order of closure of evidence as well as impugned order deserves to be quashed.

I have heard the arguments and perused the record.

It is undisputed fact that the FIR was registered in 2013 and police presented *challan* on 21.07.2014. Charges were framed on 28.01.2015 and prosecution was granted more than 30 opportunities to lead evidence. The trial Court closed prosecution evidence vide order dated 11.11.2022 and this order was never challenged prior to filing of present petition. The petitioner moved an application seeking summoning of Dr. Navjot Kumar. It would be apt to reproduce the contents of the application which read as under :

1 That the above noted case is pending in this Hon'ble Court and fixed for today.

2 That in the above said case, the Hon'ble Court closed the prosecution evidence by order dated 11.11.2022.

3 That Dr Navjot Kumar Civil Hospital Ludhiana was not examined/appear as a witness. The evidence of the concerned doctor is very much essential for the just decision of the case.

Hence, it is therefore prayed that the above mentioned witness may kindly be ordered

to summoned in the present case, in the interest of justice.”

From the perusal of the application, it appears that there is no ground or substantial reason which had compelled the petitioner to move an application. The trial Court has passed well reasoned and speaking order after considering the date of filing of *challan*, framing of charges and closure of evidence. The prosecution has right to secure judgment of conviction against an accused. The prosecution has right to lead evidence in support of its case, however, nobody can be put to unending litigation. The protracted trial amounts to violation of fundamental right of life and liberty guaranteed by Article 21 of the Constitution of India. It is responsibility of the State to conclude trial at the earliest. The rate of conviction is well known. If an accused is acquitted, the days lost in the litigation cannot be returned. Neither prosecution nor the complainant seems to be ready to compensate an accused who has suffered mental and physical agony on account of protracted trial. This Court cannot ignore these facts and permit the petitioner to move an application mechanically and keep the trial pending.

Dismissed.

(JAGMOHAN BANSAL)
JUDGE

14.02.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>