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

CRM-M-8008-2023

Date of Decision: February 15, 2023

Surjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.R.S.Bains,Sr. Advocate with
Mr.Aman Raj Bawa, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 482 Cr.P.C. seeking direction to declare all the prosecution evidence ultra-vires and non-est recorded after trial Court's order dated 10.02.2020, on which date prosecution evidence was closed by order.

It has been contended by learned senior counsel that in all 109 opportunities were granted to the prosecution for leading its evidence, however, the prosecution failed to adduce evidence and thus, the learned trial Court closed the same by order by way of passing the order dated 10.02.2020 and the case was fixed for recording the statement of the accused under Section 313 Cr.P.C. on 15.02.2020. Learned senior counsel submits that the trial is pending since 2014 and the prosecution intentionally delayed the same by not concluding its evidence and hence the trial Court, in all its

fairness, has closed the prosecution evidence and fixed it for recording the statement of accused under Section 313 Cr.P.C., however, thereafter the Covid started and proceedings were resumed on 19.07.2021. He submits that the trial Court, without passing any reasoned order, directed for recording the prosecution evidence again when the same was already closed by its order dated 10.02.2020. He has submitted that neither there was any application under Section 311 Cr.P.C. by the prosecution or by the defence but the order dated 19.07.2021 was passed by the trial Court suo motu without assigning any reason. He submits that directing the prosecution to lead the evidence again in the facts and circumstances is totally uncalled for and it will cause prejudice to the defence as the prosecution evidence was already closed by order dated 10.02.2020.

Notice of motion.

On asking of the Court, Mr.Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent/State.

After hearing learned senior counsel for the petitioner and the learned State counsel, it is apparent that trial is pending in this case since the year 2014 and the evidence of the prosecution was also closed by order by the trial Court on 10.02.2020 when the prosecution had miserably failed to conclude its evidence despite having been granted numerous opportunities. A perusal of the order dated 19.07.2021 would show that the trial Court did not assign any reason for summoning the prosecution evidence which prima facie appears to cause prejudice to the accused as the same would further prolong the trial. However, keeping in view the overall facts and circumstances, this Court does not find it appropriate to seek any

reply from the State and thus, dispose of this petition with a direction to the

trial Court to pass a fresh order by assigning reasons for resuming the prosecution evidence within four weeks from the date of receipt of a certified copy of this order.

The trial is pending since long, hence the trial Court is requested to expedite the same.

February 15, 2023
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |