

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

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CRM-M-7714-2023
Date of decision: 13.02.2023

PANKAJ GOYAL @ GUPTA @ PANKAJ GUPTA

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 482 Cr.P.C. for quashing the order dated 06.02.2023 (Annexure P-2) passed by the JMIC, Faridabad whereby the oral evidence of the defence has been closed by order.

Learned counsel for the petitioner contends that an application under Section 315 Cr.P.C. was filed by the accused-petitioner to appear himself as witness which was allowed on 29.11.2022 whereafter though the petitioner sought an adjournment on 12.12.2021 and 09.01.2022 whereon the statement of the petitioner was recorded on 25.01.2023 and DWs were to be produced at own responsibility and the case was adjourned to 06.02.2023. However, on 03.02.2023, he had filed an application summoning the witnesses and for depositing the diet money on his behalf which was deposited on the same day, however, the said two witnesses were served on 03.02.2023, who could not appear on the aforesaid date

and the oral evidence of accused-petitioner was closed by Court order. He prays for only one opportunity to get the said witnesses examined which may even be subject to costs as grave prejudice shall be caused to the accused-petitioner in the absence of non-examination of the said witnesses.

Since no order that may prejudice the interest of the private respondent is proposed to be passed, therefore, there is no necessity of issuing notice to him to seek their response at this stage.

Heard.

The trial Court declined the prayer of the petitioner to summon the witnesses, for which on 03.02.2023, the petitioner had filed an application summoning the witnesses and deposited the diet money on the same day, as is apparent from Annexure P-3, however, the said two witnesses were served on 03.02.2023, but who could not appear on 06.02.2023, it being a short date and the evidence was closed. The object underlying [Section 311 CrPC](#) is that there may not be failure of justice on account of mistake of either party in bringing the valuable evidence on record or leaving ambiguity in the statements of the witnesses examined from either side. The determinative factor is whether it is essential to the just decision of the case. The significant expression that occurs is "at any stage of any inquiry or trial or other proceeding under this Code, as was held by Hon'ble The Supreme Court in the case of **V N Patil Vs. Niranjan Kumar**, (2021) 3 SCC 661.

Considering the peculiar facts and circumstances of the case, particularly in wake of depositing the diet money and two witnesses having also been served and to secure ends of justice, the trial Court is directed to grant one opportunity to the petitioner to examine the witnesses mentioned in the

application, subject to deposit of costs of Rs.15,000/- to be paid to respondent No.2.

Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

February 13, 2023

Mehak/gsv

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No