

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15493-2023 (O&M)
DECIDED ON: 26.04.2023

KAPIL SETIA

.....PETITIONER

VERSUS

RAMANDEEP KOCHAR

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Piyush Khanna, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

CRM-14774-2023

Application is allowed as prayed for.

Annexures P-5 to P-7 are taken on record with just exceptions.

CRM-M-15493-2023

In pursuance of the order dated 29.03.2023, a copy of receipt dated 27.03.2023 has been produced making payment of Rs.250/-. The said receipt is taken on record as Mark-A.

Learned counsel for the petitioner has assailed the order dated 22.02.2023 (Annexure P-4) passed by Judicial Magistrate 1st Class, Abohar in NACT No.342 of 2019.

A perusal of the said order depicts that the evidences of the petitioner-complainant was closed, while declining the prayer for exemption from the appearance.

Learned counsel for the petitioner has drawn attention of this

Court to an application dated 22.02.2023 (Annexure P-3), whereby the reasons for seeking exemption has been narrated in para 2 of that application, which reads as under:-

“That the complainant Dr. Kapil Setia is Govt. doctor and he is only one doctor in his dispensary and Govt. of Rajasthan organized the Covid Vaccination Camp for the vaccination of people and complainant Dr. Kapil Setia is under duty in this camp, so the applicant is not in a position to attend the Court today. Pamphet of camp is attached herewith.”

However, the trial Court has ignored the reasons, while declining the evidence by an order and adjourned the case for recording of statement of accused under Section 313 of Cr.P.C., apart from imposing cost of Rs.250/-, which could not be paid by the complainant, who was actually busy in the Covid Vaccination Camp performing is Government duty in Rajasthan.

This Court is of the considered view that, if a party to the lis seeks exemption from appearance time and again for one or the other reason, it can be easily inferred that it is a delaying tactic to bring the trial to a stand still progress of trial, but in the present case, wherein the petitioner-complainant is a doctor by profession, was on duty in the Covid Vaccination Camp conducted by Government of Rajasthan, which fact has been corroborated by attendance slip, and also considering the cost of Rs.250/-, which has now been deposited as is evident from receipt dated 27.03.2023 bearing Sr. No. ST1892374. To meet the ends of justice, it would be appropriate that one more opportunity be granted to the petitioner-complainant to adduce his evidence.

Taking a lenient view in the matter, particularly for the nature of

duties, he was performing during pandemic covid 19, it is directed that the

petitioner shall conclude his remaining evidence on the next date of hearing, as already stands fixed by the trial Court below in the instant complaint.

No further opportunity will be granted to the petitioner-complainant and neither any application for exemption may be considered, in case, the trial Courts deems it to be a delaying tactics on his behalf.

In view of the above, petition stands disposed off.

(SANDEEP MOUDGIL)
JUDGE

26.04.2023

Meenu

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