

240 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1264-2022 (O&M)
DECIDED ON: 11th JANUARY, 2023

MANDEEP KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.S. Thind, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. AG, Punjab.

Mr. Ashok Giri, Advocate
for the respondent.

SANDEEP MOUDGIL, J. (ORAL)

CRM-21697-2022

Application is allowed, as prayed for.

FIR dated 23.08.2016, interim orders and application dated 16.03.2022 are taken on record, as Annexures P-1 to P-4, subject to all just exceptions.

CRR-1264-2022

By way of instant petition, the petitioner has assailed the order dated 05.05.2022 passed by learned Additional Chief Judicial Magistrate, Jalandhar whereby, an application under Section 311 Cr.P.C. moved by the petitioner seeking examination of various prosecution witnesses, has been dismissed.

From an application dated 16.03.2022 (Annexure P-4), it is crystal clear that the witnesses sought to be examined were referred in the list of witnesses attached with the challan by the prosecution but not examined so far. The fact as has been highlighted in the petition is that once SHO appeared in examination-in-chief but did not turn up for cross-examination which may hamper the case of the petitioner as the material witnesses are to be examined to reach the logical conclusion of the trial.

On the other hand, Mr. Ashok Giri, Advocate has put in appearance on behalf of respondent No.2 and submits that it is nothing but a delaying tactic.

This Court is fully convinced that the impugned order dated 05.05.2022 is perverse and considering the fact that no prejudice would be caused to either of the parties, the present petition is allowed and petitioner is allowed to examine the proposed witnesses which were already named in the list of witnesses as attached in the challan.

However, such liberty shall be subject to payment of cost of Rs.5,000/- to respondent No.2 and the said amount shall be paid to respondent No.2 before the trial Court.

The petitioner is also bound down to complete the examination of four witnesses within next four dates of proceedings before the trial.

The present petition is disposed of in the afore-said terms.

11th JANUARY, 2023

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*