

203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41802-2021 (O&M)
Decided on:-12.12.2023

Jaswinder Singh

....Petitioner..

vs.

State of Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vijay Pal, Advocate
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

Mr. Nitin Sachdeva, Advocate,
for respondents No.2 and 5.

Mr. Amandeep Singh, Advocate,
for respondent No.3.

Mr. Arjun Veer Sharma, Advocate,
for respondent No.4.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C, prayer has been made for setting aside the order dated 09.01.2020 passed by the Court of Judicial Magistrate Ist Class, Ludhiana (Annexure P-2), dismissing the application filed by the prosecution invoking Section 311 Cr.P.C. for summoning the witnesses.

2. In the present case, FIR No.169, dated 20.09.2011, was registered under Sections 420, 467, 468, 471 and 120-B IPC, at Police Station Sarabha Nagar, Ludhiana City, at the instance of petitioner-complainant, wherein, upon conclusion of investigation, charges were framed on 08.01.2014 and list of 27 witnesses was attached along with the

challan (Annexure P-3). The evidence of the prosecution was concluded on 09.10.2019. Thereafter, an application came to be filed at the instance of prosecution on 02.11.2019, seeking permission to summon and examine 12 witnesses and the said application was opposed at the instance of private respondents and the prayer was declined by the Trial Court vide order dated 09.01.2020 (Annexure P-5).

3. Impugning the aforesaid order dated 09.01.2020, learned counsel for the petitioner-complainant submits that the prosecution in the present case did not pursue the matter vigilantly/diligently as the relevant witnesses were never summoned and examined, thereby, compelling petitioner to file the present petition.

4. On the other hand, learned counsel for the private respondents submit that on earlier occasion similar application was filed, which got dismissed vide order dated 09.10.2019 (Annexure P-2).

5. I have heard learned counsel for the parties and gone through the paper book.

6. Though, apparently, the petitioner may not be vigilant to pursue his rights, yet, denying him an opportunity to appear as prosecution witness so as to substantiate the complaint moved at his instance may amount to denial of fair opportunity to him. Moreover, the petitioner being complainant was never incharge of the prosecution and thus, the entire burden of having not acted with due diligent cannot be solely attributed to him.

7. In view thereof, the present petition is disposed of and the petitioner is afforded one last opportunity to appear as a witness and produce on record any other evidence in support of his complaint. The grant of

opportunity would even otherwise be in furtherance of interest of justice, beside not causing any prejudice to the other-side as well.

8. The aforesaid order is subject to payment of cost of Rs.20,000/- to be deposited by the petitioner with the **Society for the Care of the Blind, A/c No.10506615304**, State Bank of India, Sector 7-C, Chandigarh within a period of 07 days from the date of receipt of certified copy of this order.

12.12.2023
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(HARKESH MANUJA)
JUDGE

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