

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

113

CRM M-6784 of 2024

Date of Decision: 09.02.2024

Bittu Singh

...Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Amandeep Saini, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to issue necessary directions to the trial Court to conclude the proceedings of Sessions Case No. 281/2018 titled as “**State Vs. Jarnail Singh and others**” in FIR No. 58 dated 13.08.2018 under Sections 307, 452, 323, 148 and 149 of IPC and Sections 25 and 27 of the Arms Act registered at Police Station Ballianwali, District Bathinda.

2. Learned counsel for the petitioner contends that the FIR in the present case was registered on the basis of the statement made by the present petitioner on 13.08.2018. After the presentation of the report under Section 173 Cr.P.C., the charges were ordered to be framed on 05.01.2019 and the prosecution evidence had formally commenced on 22.1.2019. Learned counsel further contends that the injured, eye witness and the attending doctor have already been examined before the trial Court. However, despite lapse of 04 years,

the prosecution has not been able to examine any police official as a witness and conclude the prosecution evidence. Even, the case history/status downloaded from the web-site of e-Courts Portal has been annexed with the petition as Annexure P-2, which clearly shows that the case has been repeatedly adjourned for prosecution evidence. He further contends that now the accused are also threatening the complainant to compromise the matter and even they tried to kill one of the eye witness Sukhvir Singh by administering him poison and one FIR No. 99/2020 was registered against the accused at Police Station Ballianwali. Learned counsel for the petitioner has already placed on record the zimini orders (Annexure P-3 to P-10) passed by the trial Court to show that the police officials are not appearing as witnesses before the trial Court.

3. Notice of motion.

4. On the asking of Court, Mr. I.P.S. Sabharwal, DAG, Punjab accepts notice on behalf of respondent-State.

5. Mr. I.P.S. Sabharwal, DAG, Punjab on instructions from ASI Jaskaur Singh submits that every effort shall be made to produce the witnesses before the trial Court, so that the trial is concluded at the earliest.

6. I have heard learned counsel for the parties and perused the record.

7. From the record, it is evident that the case was listed for prosecution evidence on 17.01.2023, 21.03.2023, 25.04.2023,

25.07.2023, 29.08.2023, 26.09.2023, 31.10.2023 and 08.01.2024.

However, on all these dates, no prosecution witness was present before the trial Court. In fact, such orders demonstrate the complete helplessness on the part of the trial Court.

8. In case, the witnesses are not appearing before the trial Court, the trial Court is bound to issue coercive process against the said witnesses. The trial Court should have resorted to the provisions contained in Chapter VI of the Code of Criminal Procedure, which provides for the processes to compel appearance.

9. In case, the witness is not appearing before the Court, the Court should have issued warrants against the said witnesses and should have ensured the presence of the witnesses before the Court of law. Further, due to such attitude of the official witnesses, it is the complainant, who is further victimized in a criminal trial.

10. Consequently, the trial Court is directed to issue coercive process against all the witnesses, who are not appearing in the present case and is also directed to ensure the presence of all the witnesses before it.

11. A copy of the order be sent to the

12. Senior Superintendent of Police, Bathinda, for information and further necessary action.

12. In case, any of the witness plays truant with the Court and chooses not to appear before the trial Court, he shall be taken in

custody by the concerned Senior Superintendent of Police, and shall be produced before the Court as an witness.

13. The trial Court is also directed to expedite the trial.
14. The Registry of the Court is directed to send a copy of this order to the concerned Senior Superintendent of Police as well as the trial Court immediately for strict compliance.
15. The petition stands disposed off.

09.02.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No