



CRM-M-22652-2017

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

CRM-M-22652-2017
Decided on : 07.08.2024

Bebi Petitioner

Versus

State of Haryana & others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mayank Sharma, Advocate
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner under Section 482 Cr.PC for setting aside the impugned order dated 01.10.2016 passed by Addl. Chief Judicial Magistrate, Bhiwani (Annexure P-2) as well as order dated 31.05.2017 (Annexure P-3) vide which the prosecution evidence was closed and all other subsequent proceedings arising therefrom in case FIR No.55 dated 24.01.2015 under Sections 323, 452, 506 and 34 IPC registered at Police Station Bhiwani Sadar District Bhiwani.

2. Learned counsel for the petitioner contends that it was at his instance the FIR in question was lodged. The trial is still underway, with only three out of the eight prosecution witnesses having been examined so far.



It has been argued by the learned counsel that the impugned order had been passed by the trial court, ignoring the fact that the official witnesses – the investigating officer and the doctor- have repeatedly failed to appear despite being served non-bailable warrants to secure their presence. It has been contended that the petitioner should not be penalised for the failure of these two official witnesses to appear and get their evidence recorded, particularly, as their testimony would significantly support his case. After arguing for sometime, learned counsel prays that one more effective opportunity to get the evidence of both these witnesses be granted as it would further the cause of justice.

3. Learned State counsel has also not disputed that the doctor as well as the investigating officer have failed to appear despite issuance of non-bailable warrants. It is also undisputed that the prosecution evidence is underway, with only 3 out of 8 witnesses cited by the prosecution having been examined till date.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. Upon hearing the submissions, although the case relates back to the year 2017 and the two witnesses i.e. doctor and the investigating officer having been given the multiple opportunities to appear to get their evidence recorded. This Court, in the interest of justice and to ensure a fair adjudication of the case, deems it



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appropriate to set aside the impugned order and grant one more effective opportunity to the prosecution to present their evidence.

6. Accordingly, the instant petition is allowed in the following terms:

- (i) The prosecution witnesses shall appear and adduce their evidence on the next date of hearing before the trial Court.
- (ii) In the event of default, the matter shall not be adjourned and no further opportunity shall be granted to the prosecution. The prosecution evidence would then be deemed to be closed.

07.08.2024
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(MANJARI NEHRU KAUL)
JUDGE

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