

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

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**CRM-M NO.26922 of 2023**  
**DATE OF DECISION: 01.04.2024**

Sangeeta Yadav

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present Mr.Mukesh Yadav, Advocate,  
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.  
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**KULDEEP TIWARI, J (ORAL)**

1. The inherent power of this Court has been invoked to challenge the order dated 27.03.2023 (Annexure P-20) whereby, the prosecution evidence has been closed by Court order in case No. CHI/2205/2018 titled as State Vs. Bhoora Singh etc. arising out of FIR No.136 dated 24.05.2018, under Sections 186, 34 IPC, and Under Section 3 of the Prevention of Damage of Public Property Act, 1984, registered at Police Station Khol, District Rewari.

2. Learned counsel for the petitioner submits that instant order (supra) has been challenged on the ground that it is infact the fault of the SP office concerned, who did not produce the original complaint before the leaned trial Court concerned, despite granting several opportunities. Therefore, because of the fault of the SP office, the petitioner, who is complainant and the star witness, cannot be put to peril. He further submits that there is nothing on record to suggest that the petitioner tried to avoid getting her statement recorded before the learned trial Court concerned. He also draw attention of this Court on the interim order dated 30.09.2022, to submit that on that day the petitioner was present before the learned trial Court concerned, to get

herself examined as a prosecution witness, but her testimony was not recorded as the original complaint was not attached / annexed with the final report as submitted by the Prosecution Agency, and the learned trial Court has directed SP office to file original complaint on the next date of hearing. The relevant extract of the interim order dated 30.09.2022 is read as under:-

*“One PW namely Sangeeta Yadav is present but not examined as original complaint is not on record.*

*At this stage, it has come into the notice of the undersigned that dealing clerk SP Office has sent his report that original complaint is already filed alongwith challan. However perusal of challan as well as statement given by MHC PS PP Dahina on 31.03.2022, 08.01.2020 it is clear that no such copy was filed with the challan.*

*Fresh direction be given to SP Office to file original complaint on 12.10.2022.*

*Till then no summon be issued to PW Sangeeta Yadav. ”*

Thereupon, the subsequent interim order passed by the learned trial Court concerned, reflects that the matter was adjourned awaiting the original complaint from the SP office, and it was subsequently ordered that till then no summon be issued to the present petitioner, who is to be stepped into the witness box as a prosecution witness. However, finally on dated 06.02.2023, the learned trial Court concerned has observed that despite giving sufficient opportunities, the original complaint has not been filed, rather it has been reported by the SP office that they are unable to trace the original complaint and the learned trial Court concerned, proceeded to grant last and final opportunity to produce all documents as well as evidence on the next date of hearing, and on the adjourned date i.e on dated 27.03.2023, the learned trial Court concerned passed the following order which is under challenge before this Court:-

*“Today the case was fixed for prosecution evidence. Several opportunities have been granted to the prosecution to conclude its entire evidence despite that prosecution has been unable to finish its case evidence against accused. The case is*

*pertaining to the year 2018. Considering all the opportunities granted to the prosecution, thus, the prosecution evidence is hereby closed by court order. Now to come upon 05.08.2023 for recording statement of accused u/s 313 Cr.P.C .”*

3. Learned counsel for the petitioner, also submits that the petitioner was never summoned by the learned trial Court after 30.09.2022, rather there were specific directions that the petitioner would not be examined till the original complaint is made available on record by the SP office. He further submits that he never avoided her appearance before the learned trial Court, to get her statement recorded, however, this fact has been over looked by the learned trial Court at the time of closing the evidence of the prosecution. He further submits that in case one opportunity is granted to record the statement of present petitioner as well as other witnesses, if any, the petitioner will do the needful, as required to be done.

4. Learned counsel appearing for the complainant – respondent no.2, though opposed the ask for the relief, however, he admits the factum regarding non production of original complaint by the SP office. He also admits that the petitioner was never summoned after, dated 30.09.2022, and on that day she was present, and her testimony was not recorded because of non availability of the original complaint.

5. Be that as it may, on perusal of all the zimni orders, as attached by the present petitioner, this Court finds that there is no fault on the part of the present petitioner, and non recording of her testimony, who is stated to be one of the star witness, and complainant, this would certainly effect the case of prosecution,

6. Purely, in the interest of justice, one more opportunity is granted to the prosecution to get the statements recorded before the learned trial Court. The petitioner along with any other witness, if any, who were cited in the final report by the prosecution, would cause an appearance before the learned trial Court concerned, on dated 19.04.2024, which is next date fixed before the learned trial Court concerned and in eventuality of their appearance, the trial Court shall record their evidence.

7.            It is made clear that no further opportunity shall be granted to the prosecution for the above purpose.
8.            Impugned order dated 27.03.2023 (Annexure P-20) is set aside and petition is accepted with the above directions.
9.            **Disposed off accordingly.**

**01.04.2024**  
**mamta**

**(KULDEEP TIWARI)**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |