

2024:PHHC:142658



132 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**CRM-M-31606-2024**  
**DECIDED ON: 08.07.2024**

**ANOOP KUMAR**

.....PETITIONER

## VERSUS

NIRMAL MAHAJAN AND OTHERS

## .....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Sahil Soi, Advocate  
for the petitioner.

**SANDEEP MOUDGIL, J**

**1. Relief Sought:-**

The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of order dated 27.05.2024 (Annexure P-8) vide which an application under Section 244(2) Cr.P.C. for summoning the witnesses in a complaint case bearing No. COMI-322-2014, dated 22.07.2014, under Sections 326, 323, 324, 506 and 34 IPC, titled as “**Anoop Kumar vs. Nirmal Mahajan**”, has been dismissed.

## 2. *Facts:-*

The brief facts of the case are that the petitioner-complainant filed a complaint against the respondent-accused under Sections 326, 323, 324, 506 and 34 IPC in which after recording preliminary evidence, the case was fixed for pre-charge evidence.

In the pre-charge evidence, the petitioner-complainant got examined CW-1 and CW-2 on different dates. On 21.02.2019, CW-3/Bal Mukand was got examined by the complainant-petitioner, and thereafter, the matter was adjourned to 19.03.2019, 23.04.2019 and 09.05.2019 the evidence of the petitioner was closed by order. The said order was challenged by the petitioner by way of filing petition bearing No. CRM-M-25946-2019, which was allowed and the petitioner was afforded one effective opportunity to record his pre-recharge evidence on payment of costs of Rs.5000/-. As such the petitioner-CW-4 got himself examined on 03.10.2023. Thereafter, the petitioner and his witness namely Amrik Singh were present in Court, but the trial Court did not allow the petitioner to record the evidence of the witness. Hence, the impugned order came to be passed.

**3. Submission on behalf of petitioner:-**

The learned counsel for the petitioner-complainant contends that the name of Amrik Singh is mentioned in the list of witnesses and his examination is very much necessary for the just and proper decision of the present case. Moreover, the case is still at the stage of recording of pre-charge evidence of the petitioner-complainant. The trial Court has dismissed the application under Section 244(2) Cr.P.C. simply on the ground that only one opportunity was afforded to the petitioner, however, the witness was very much present in the Court on the date, the impugned order came to be passed.

**4. Analysis**

From the perusal of file, it is evident that the petitioner-complainant examined himself on 03.10.2023, utilizing his sole opportunity as per the order dated 01.09.2023 passed by this Court in CRM-M-25946-2019. He failed to examine additional witness on that date. Now, he seeks to examine more witnesses,

contravening the direction of this Court, as he has already exhausted his sole opportunity. The petitioner-complainant should have presented all his evidence within that opportunity, which he failed to do. Moreover, he has availed his sole chance and cannot introduce additional evidence.

5. **Decision:-**

In view of the discussions made hereinabove, this Court is of the view that the impugned order dated 27.05.2024 is a well reasoned and a speaking order which needs no interference of this court. Accordingly, the same is upheld .

Dismissed.

(SANDEEP MOUDGIL)  
JUDGE

08.07.2024

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |