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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 07.11.2024

Satbir Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Savita Rana, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

1. Aggrieved by the closure of evidence by JMFC, Gurugram vide order dated 16.09.2024, accused has come up before this court by filing the present petition under section 442 BNSS 2023.

2. Notice served upon the official respondent through State counsel. The nature of order which this Court proposes to pass, would not prejudice or affect the interest of the complainant and rather would be in the interest of complainant because it would expedite the trial.

3. Vide impugned order dated 16.09.2024, passed by the JMFC, Gurugram, the defense was closed by observing as follows:-

"Cost paid. Today the case was fixed for Dws. No DW is present. Perusal of the file shows that several effective opportunities have been granted to the accused to conclude his defence evidence. However, the accused failed to conclude the defence evidence. Despite availing sufficient opportunity for the same. It is pertinent to mention herein that the present case has been fixed for defence evidence since 20.12.2023. Therefore, this court is of the opinion that there is no ground for granting any further opportunity to the accused for defence evidence. Therefore, defence evidence is hereby closed by court order. Now, case, is adjourned to 19.09.2024 for final arguments."

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4. Petitioner's counsel submits that non-appearance of witness in defence as well as counsel, was un-intentional. He further submits that petitioner's counsel was absent because of ill health and affidavit of counsel has been annexed as Annexure P-2.

5. Given above, there is no reason for this Court to doubt the affidavit given by the advocate at this stage. Given the above ground, petition is **allowed** and impugned order dated 16.09.2024 is quashed and set aside. Petitioner is directed to remain present before the concerned Court on the date already fixed i.e. 11.11.2024. Trial Court is requested to grant at least two effective opportunities to the petitioner to lead his defence evidence. Petitioner to also communicate this order to the trial Court as well as to complainant's counsel. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

07.11.2024

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Whether speaking/reasoned: Yes
Whether reportable: NO.