



CRM-M-63030-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-63030-2024

Date of decision: 16th December, 2024

Gurdawar Singh Dhindsa

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Umesh Aggarwal, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed by the petitioner seeking quashing of order dated 22.11.2024 passed in case arising out of FIR No. 187 dated 22.12.2017 registered under Sections 406, 420-B, 120-B of IPC, at Police Station Jalandhar by the Court of learned Judicial Magistrate First Class, Phillaur, thereby closing the evidence of the prosecution.

2. The petitioner is lodger of the aforementioned FIR. During the course of recording prosecution evidence, an application had been filed under Section 311 of the Code of Criminal Procedure (for short 'Code'), to complete the examination of one witness namely Promila whose statement had been partly recorded in-chief as PW-3 on 03.09.2019 as well as for examining another witness Mandeep Singh. This application was allowed vide order dated 31.08.2024 and thereafter, the case had been adjourned for



recording prosecution evidence. Copies of subsequent orders passed by the learned trial Court are part of the record and a perusal of the same shows that above named PW-3 Promila had been cross-examined on 05.10.2024, thereafter also opportunities were availed by the prosecution for concluding its evidence. Since it failed to conclude its evidence, the learned trial Court closed the prosecution evidence vide order dated 22.11.2024.

3. It is submitted by the learned counsel for the petitioner that the impugned order is liable to be set aside as one witness namely BIS Kahlon, DSP failed to appear before the learned trial Court despite service and instead of securing his presence by taking coercive steps, the evidence of prosecution was closed. One more witness namely Kirandeep Kaur had also not been examined. The petitioner-complainant submits that he is ready to ensure the presence of the above named Kirandeep Kaur on the next date of hearing and therefore, it is urged that the impugned order be set aside and opportunity be granted to the petitioner/prosecution for recording the statements of two witnesses namely BIS Kahlon and Kirandeep Kaur.

4. I have heard learned counsel for the petitioner at considerable length and have perused the record carefully.

5. On a perusal of the record, it is explicit that the prosecution had been granted sufficient opportunities to conclude its evidence in the aforementioned case which pertains to an FIR registered way back in the year 2017 and is obviously, a case falling under the 'action plan category' case. The petitioner/prosecution had moved an application under Section 311 of the Code for summoning certain witnesses. The said application had been



allowed vide order dated 31.08.2024, thereby granting opportunity to the petitioner/prosecution to examine Mandeep Singh and Promila. Above named Promila had been examined subsequently. Simultaneously some other prosecution witnesses were also summoned. Several effective opportunities, including two last opportunities are shown to have been availed by the prosecution and thereafter, the learned trial Magistrate was constrained to close the prosecution evidence. Since the prosecution failed to ensure presence of the witnesses, which are sought to be produced now, despite grant of sufficient effective opportunities, therefore, in the considered opinion of this Court, the learned trial Court committed no error in closing the evidence of prosecution by order of the Court. The petitioner has also failed to show as to what relevance, the statement of the proposed witnesses are having in the instant case. He has also failed to assign any sufficient explanation for non examination of these witnesses earlier. As such, finding no ground to allow the petition, the same is dismissed.

6. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th December, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |