



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-917-2025 (O&M)
Date of decision : 13.01.2025

ANIL KUMAR ARORA ALIAS LUCKY

..... Petitioner

VERSUS

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Haravtar Singh Saini, Advocate for the
petitioner(s).

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of BNSS, 2023, seeking quashing of orders dated 17.12.2024 (Annexure P-11) and 20.11.2024 (Annexure P-10) passed by Judicial Magistrate, First Class, Panchkula in case bearing ID CHI No.354 of 2019 titled as "*State Vs. Ajay Kumar Chhabra*", whereby the learned trial Court has closed the prosecution evidence due to non-appearance of the official witnesses.

2. Learned counsel for the petitioner submits that the petitioner is the complainant of above-stated case wherein the accused is facing trial for offence under Section 182 of IPC. Vide order dated 04.01.2022, learned trial Court issued summons to all the prosecution witnesses, however due to non-appearance of ASI Anand Parkash and Karambir Singh, fresh summons were issued against them for 15.11.2023 and even on said date, ASI Anand Parkash failed to appear and learned trial Court issued bailable warrants with one surety in like amount to secure his presence. On 20.02.2024 fresh bailable warrants were issued against him and due to his non appearance, the learned



trial Court issued non bailable warrants and observed that on failure of the prosecution to conclude the evidence on next date of hearing i.e. 17.12.2024, the evidence of the prosecution shall be deemed to be closed. On 17.12.2024, ASI Anand Parkash and Karambir Singh did not appear and learned trial Court closed the evidence of the prosecution and adjourned the trial for recording the statement of the accused under Section 313 Cr.P.C.

3. Learned counsel for the petitioner contends that the petitioner is the complainant in the trial and due to negligence and non compliance of orders of learned trial Court by prosecution witness ASI Anand Parkash and Karambir Singh, the trial Court has closed the prosecution evidence without considering the fact that closing the prosecution evidence will be fatal to the trial and the petitioner will have to suffer due to negligence on the part of ASI Anand Parkash, and Karambir Singh, who are official witnesses of the trial. He prays that impugned orders be set aside and one effective opportunity be granted to the prosecution to lead evidence in the trial and the official witness ASI Anand Parkash and Karambir Singh be directed to appear before the trial Court for recording of their evidence in accordance with law.

4. Upon advance notice, Ms. Mahima Yaspal, DAG, Haryana, who is present in Court, accepts notice on behalf of respondent(State).

5. Heard.

6. A perusal of the orders annexed with the petition reflect that the trial Court closed the evidence of the prosecution on account of non appearance of prosecution witnesses ASI Anand Parkash and Karambir Singh (who are official witnesses) and who failed to appear despite issuing bailable warrants and non-bailable warrants. Petitioner is the complainant in the trial and he cannot be made to suffer due to negligence in performing their official duties and non-compliance of Court order by them.



7. In view of the above, the present petition is allowed. Orders dated 17.12.2024 (Annexure P-11) and 20.11.2024 (Annexure P-10) are hereby set aside. The trial Court is directed to grant one effective opportunity to the prosecution to lead their evidence by examining the above-stated persons in accordance with law.

8. Deputy Superintendent of Police, concerned, is here by directed to ensure the presence of the official witnesses stated above.

Pending application(s), if any, shall also be disposed of accordingly.

(KIRTI SINGH)
JUDGE

13.01.2025
Kavita

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