



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

CRM-M-3055-2025(O&M)

Date of decision: 29.01.2025

Davinder Singh and others

...Petitioners

versus

Darshan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anant Bir Singh Sidhu, Advocate
for the petitioners.

Mr. I.S. Kooner, Advocate
for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition is preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking quashing of order dated 02.12.2024 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Patiala whereby the application preferred by the respondent-complainant under Section 311 of the Code of Criminal procedure, 1973 (hereinafter 'Cr.P.C.'), for recalling complainant and witnesses for recording pre-charge evidence was allowed.

2. Briefly, the facts, as alleged, are that the petitioners, in connivance with each other, presented themselves to be members and President of Bharti Kissan Union, Dhakounda. The petitioners were not allowing the respondent-complainant to go around the said area and petitioners No.1 and 2 each demanded Rs. 10,00,000/- from him. Further, they are pressurising the respondent to meet their demands by passing pamphlets that malign his image. The petitioners also led protests against the



respondent, using derogatory taglines, which was also gotten published in newspapers. In view of the damage sustained by the respondent to his reputation, he instituted complaint(supra). Vide impugned order dated 02.12.2024 (Annexure P-5), the complainant and witnesses were summoned under Section 311 Cr.P.C for recording pre-charge evidence.

3. Learned counsel for the petitioners *inter alia* contends that the learned trial Court had summoned the accused in complaint (supra) to face trial vide order dated 26.03.2019, after recording preliminary evidence. It would be pertinent to note that in order dated 24.09.2024, the learned trial Court had recorded that the respondent-complainant was not present to lead pre-charge evidence. Not even a single eye witness was examined till that day. In fact, despite last and final opportunity being granted, the respondent failed to conclude pre-charge evidence. As such, the learned Court below has fallen into grave error by allowing the application filed by the respondent under Section 311 Cr.P.C., especially in view of the fact that 18 opportunities were already granted to him to conclude the same.

4. *Per contra*, learned counsel for the respondent submits that the respondent could not appear in the Court on 24.09.2024 and avail the last opportunity granted to him to conclude pre-charge evidence as he had to attend the funeral of a relative. The absence of the respondent was not deliberate nor motivated by ill will. Further, serious prejudice will be caused to the respondent if the opportunity granted by the learned trial Court vide impugned dated 02.12.2024 is taken away from him. Reliance is placed on the judgement of this Court in ***Parveen Bhatti vs. H.C. Samuel Dass and another 2001 (1) R.C.R.(criminal) 732, Gulzar Singh and others vs. State of Punjab and another 2024(2) R.C.R(criminal) 370, Sanjiv Kumar Rana***



vs. State of Punjab and others 2024(1) R.C.R.(Criminal) 232 and the Patna High Court in *Prawesh Kumar Aggarwal vs. State of Bihar 2006(5) R.C.R.(Criminal) 588*.

5. Having heard the learned counsel for the parties and after perusing the record, this Court finds no ground to interfere with the impugned order dated 02.12.2024 (Annexure P-5). While it is true that the respondent was given as many as 18 opportunities to conclude his pre-charge evidence in complaint (supra), a genuine explanation has been provided by him highlighting the reason for his absence. Further still, the learned trial Court has only granted two effective opportunities for conclusion of pre-charge evidence and specifically opined that stringent conditions can be imposed to ensure the trial is not delayed further.

6. In view of the discussion above, present petition stands dismissed being devoid of any merit. Pending miscellaneous application(s), if any, also stand(s) disposed of.

29.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |