



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

246

CRR-349-2024 (O&M)

Date of decision: 10.12.2025

Ashok Kumar

...Petitioner(s)

VERSUS

State of Haryana

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Ms. Deepika, Advocate for
Mr. S.K. Yadav, Advocate for the petitioner(s).

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. J.P. Sharma, Advocate for the complainant.

VINOD S. BHARDWAJ, J. (Oral)

1. The present petition has been filed against the order dated 09.02.2024 passed by the Additional Sessions Judge, Narnaul whereby the petitioner's application for summoning of witnesses in his defence has been dismissed and the case has been fixed for arguments.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner is facing prosecution in FIR No.329 dated 25.10.2020, registered under Sections 148, 149, 201, 323, 326, 427, 459 and 506 of the Indian Penal Code, 1860 at Police Station Sadar Narnaul, District Mahendergarh. He submits that after conclusion of the prosecution evidence and recording, the matter was fixed for defence evidence. The petitioner accordingly moved an application on 09.02.2024 for seeking permission to examine his defence witnesses, along with a list thereof. However, the trial

Court rejected the said application and proceeded to fix the matter for arguments. Counsel further submits that the petitioner intended to examine (i) Lali wife of Dharampal, (ii) Mahender son of Hari Ram, (iii) Surender son of Babu Lal, and (iv) Dr. Kuldeep, who had prepared the MLR of the complainant. He submits that only two opportunities were granted to the petitioner to lead defence evidence and the mere inability to examine witnesses within that limited period cannot be construed as an attempt to delay the trial or to protract the proceedings. He submits that even the witnesses sought to be examined as per the application, were present in Court, yet, the application was dismissed. She thus contends that the present petition deserves to be allowed and that the order dismissing the petitioner's application and closing the defence evidence warrants interference and ought to be set aside.

3. Counsel for the respondent, on the other hand, contends that the petitioner had already availed two effective opportunities to lead defence evidence, yet no meaningful attempt was made to examine any witness. He submits that even the list of proposed defence witnesses was not filed within the time granted. In these circumstances, the trial Court rightly declined the application and proceeded to close the defence evidence.

4. Having heard learned counsel for the respective parties, I am of the opinion that the order declining the petitioner's application for leading defence evidence and consequentially closing the defence evidence has been passed in an undue haste. Two opportunities for conclusion of defence evidence may not be, in some circumstances, construed as affording sufficient opportunities to an accused to conclude his defence evidence.

Needles to mention right to lead defence evidence is a substantive and valuable right conferred upon an accused and its exercise cannot be reduced to a mere procedural formality. Law mandates that the defence witnesses have to be given the same degree of credibility as are available to prosecution witnesses and any endeavour by an accused to establish his defence should not be lightly brushed aside on the ostensible ground of expediting the trial.

5. It is further evident that the case pertains to the year 2020 and much time was seemingly granted to the prosecution to complete its evidence.

6. Hence, the present petition is allowed and the order dated 09.02.2024 passed by the learned Additional Sessions Judge, Narnaul is hereby set aside. The matter is remanded to the learned Sessions Judge, Narnaul, for proceeding with the trial afresh at the stage of defence evidence and grant the petitioner sufficient and reasonable opportunities to lead and conclude evidence in support of his defence.

(VINOD S. BHARDWAJ)
JUDGE

10.12.2025

Mangal Singh

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