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

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Date of decision : 21.07.2025

Sakshi Upadhaya

..... Petitioner

V/S

State of Haryana

..... Respondent

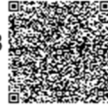
CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Manish Soni, Advocate for petitioner.

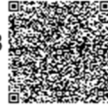
Ms. Nidhi Garg, AAG, Haryana.

AMARJOT BHATTI J. (ORAL)

1. Petitioner- Sakshi Upadhaya has filed petition under Section 482 Cr.P.C. for quashing of impugned order dated 17.11.2022 (Annexure P-2) passed by learned Additional Sessions Judge, Gurugram in Sessions Case No.76/2019 dated 23.01.2019 titled as “State Vs. Prabhu Narayan Mishra” in FIR No.842 dated 01.12.2018, under Section 376(2)(n) of IPC, registered at Police Station DLF Sector 29, Gurgaon whereby Reader of the court was directed to register a complaint against the petitioner for non appearance before the court under Section 174 of IPC with further prayer for quashing of consequential proceedings arising out of the said complaint No.COMI/722/2022 dated 17.11.2022 (Annexure P-3) under Section 174 Cr.P.C. pending before learned Chief Judicial Magistrate, Gurugram with further prayer to pass any appropriate order or direction which the court may deem fit and proper in the given facts and circumstances of the case.



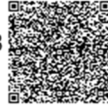
2. Learned counsel for petitioner took the stand that she is the victim in FIR No. 842 dated 01.12.2018, under Section 376(2)(n) of IPC, registered at Police Station DLF Sector 29, Gurgaon. During the pendency of the aforesaid trial, she was summoned for recording of her statement. Initially, she did not receive the summons and learned trial Court passed order dated 03.03.2022 and issued her warrants of arrest which were not served upon her. The process was again issued for 24.05.2022, 26.07.2022 and further adjourned to 08.09.2022. On this date her examination-in-chief was recorded as PW-8 and cross-examination was deferred and the case was adjourned to 21.09.2022. On this date, present petitioner/prosecutrix was out of station and she filed application seeking exemption which was allowed and the case was fixed for 18.10.2022 for cross-examination. On 18.10.2022, 27.10.2022 and 01.11.2022 she could not appear in the court since, she had gone to her native place District Darbanga State Bihar on account of Dusshera festival and thereafter there was Diwali festival. Under these circumstances, she could not appear in the Court. On 01.11.2022, the prosecutrix could not come to the court as she had travelled at night time. Her warrants of arrest were issued for 17.11.2022 which is (Annexure P-1). On 17.11.2022, she appeared in the court and her cross-examination was completed as PW-8. On these basis, the learned trial Court passed impugned order dated 17.11.2022 (Annexure P-2). The complaint filed against her under Section 174 of IPC is Annexure P-3. There was no intentional absence on the part of petitioner. In fact, due to aforesaid facts and circumstances she could not appear before the learned trial Court. Statement of petitioner/prosecutrix has already been completed. Therefore, no purpose would be served with the continuation of

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complaint filed against her under Section 174 of IPC and the same may kindly be quashed.

3. Learned counsel representing State opposed the petition and also filed status report confirming the aforesaid factual position. It is pointed out that learned counsel for petitioner/prosecutrix sought adjournment time and again as referred above. As a result of which the trial in this case was much delayed. Considering the factual position evident on record, learned trial Court rightly passed impugned order dated 17.11.2022 (Annexure P-2) for filing of complaint against petitioner/prosecutrix under Section 174 of IPC. She cannot be permitted to take advantage of her own wrongful act. She did not show any respect to the process of law. Despite aware of the pendency of trial, she did not appear before learned trial Court time and again. In the light of aforesaid factual position, petition filed by petitioner deserves dismissal.

4. I have considered the facts of the case and the documents annexed with the present petition. Petitioner has challenged the impugned order dated 17.11.2022 (Annexure P-2) vide which learned trial Court directed the Reader of Court to file a complaint under Section 174 of IPC against prosecutrix for non-appearance in Court. Copy of complaint filed in this regard is Annexure P-3. Petitioner has annexed all the zimini orders pertaining to this case as Annexure P-1. I have carefully perused the said zimini orders. The record clearly indicates that initially, learned trial Court issued summons to petitioner/prosecutrix for appearance and when she did not appear, finally, warrants of arrest were also issued. Learned trial Court was left with no alternative but to use coercive method to procure the presence of petitioner/prosecutrix. With the efforts of learned trial Court, finally, prosecutrix appeared as PW-8 on 08.09.2022 and her



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examination-in-chief was recorded and cross-examination was deferred for 21.09.2022. Again, learned trial Court adjourned the case 04 times as referred above and finally, her statement was completed on 17.11.2022. Aforesaid factual position indicates that it took about 09 months to learned trial Court to complete the statement of prosecutrix. Provisions of Section 174 of IPC runs as under:-

“174. Non-attendance in obedience to an order from public servant.—
Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both”.

5. The zimini orders (Annexure P-1) clearly indicate that petitioner/prosecutrix was well aware of the pendency of trial. Even after recording of examination-in-chief as PW-8, she did not turn up for her cross-examination on several occasions. Therefore, it cannot be said that the impugned order dated 17.11.2022 (Annexure P-2) passed by learned trial Court suffered from any kind of illegality or irregularity. The defence raised by learned counsel for petitioner can be considered at appropriate stage during the pendency of complaint.

In the light of aforesaid factual position, I do not find any reason to interfere in the impugned order dated 17.11.2022 (Annexure P-2) and petition



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seeking quashing of aforesaid order along with complaint (Annexure P-3) and subsequent proceedings therefrom is accordingly declined.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

21.07.2025.

Sunil Devi

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No