



CRM-M-25074-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25074-2025

Decided on : 13.05.2025

Sanjeev Bhatia

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Ritesh Pandey, Advocate
for the petitioner

Ms. Mahima Yashpal, DAG Haryana

KIRTI SINGH, J. (Oral)

Prayer in this petition filed under Section 528 of BNSS is for quashing of order dated 21.04.2025 passed by learned Additional District and Sessions Judge, Faridabad, District Faridabad (Annexure P-7) vide which the petitioner was asked to produce the defence witnesses at his own responsibility, despite some of them being official witnesses in case FIR No. 352 dated 09.10.2021 registered under Sections 323, 376(2)(n), 506 IPC at Police Station SGM Nagar, District Faridabad.

2. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case, during the course of trial in which an application was moved on behalf of the petitioner on 24.03.2025, for submitting the list of witnesses to be examined in defence. However, the learned



Court rejected the same vide order dated 24.03.2025 on the ground of it being filed at a belated stage. The said order was challenged before this Court, and was set aside vide order dated 01.04.2025 passed in CRM-M-17256-2025. Thereafter, vide order dated 21.04.2025, the learned trial Court though allowed the filing of list of witnesses, however, refused to issue summons the defence witnesses and the matter was adjourned to 08.05.2025 for defence evidence of the petitioner at his own responsibility. The relevant portion of the impugned order dated 21.04.2025 reads thus:

“4. It may be relevant to mention that the statement under Section 313 of the Cr.P.C. had been recorded on 20.12.2024 and the accused has already availed nine opportunities for his defence evidence but not even a single witness had been examined by him/on his behalf. The list of witnesses chosen to be submitted, on his behalf, thereby mentions five number of witnesses, to be examined. Hence, the delay in choosing to move the application to summon the witnesses, in his defence, as moved on 24.03.2025, was an afterthought merely to delay the final outcome of the case in hand.

5. Adjourned, accordingly, to 08.05.2025 for defence evidence of the petitioner/accused, at own responsibility, subject to payment of costs of Rs. 10,000/- to the complainant.”

3. It is the submission of learned counsel that once this Court had given an opportunity to the petitioner to produce the list of defence witnesses in light of the principles of fair trial, the learned trial Court should have, in accordance to the provision of Section 243 Cr.P.C., issued summons to the witnesses sought to be examined by the petitioner, them being a Notary Public, stamp vendor, witness of the live-in-relationship deed, the chowki incharge and the manager of the hotel where the complainant and the petitioner had voluntarily stayed. Learned counsel



submits that evidence of all these witnesses is essential for the petitioner to establish his innocence against the false allegations levelled against him. Therefore, it was incumbent upon the learned trial Court to issue process and facilitate the summoning of the aforesaid witnesses in order to secure the right of the petitioner to have a fair chance to build his defence. In support, learned counsel has placed reliance upon the judgment of the Kerala High Court passed in *Anil Kumar and another vs. State of Kerala and another*, CrI. MC No. 926 of 2023, decided on 07.02.2023 wherein it was held that trial Court is bound to issue process to witness proposed by accused, unless it is established that the same would amount as an attempt to defeat the ends of justice. At this stage, learned counsel for the petitioner submits that he would be satisfied if appropriate directions are issued to the learned trial Court to make efforts to secure the attendance of the defence witnesses in accordance to law.

4. Learned State counsel submits that though the impugned order was rightly passed, but does not have any objection to the limited prayer made by learned counsel for the petitioner.

5. In view of the limited prayer made by learned counsel for the petitioner, the impugned order is set aside. The matter is remanded back to the Court of learned Additional District and Sessions Judge, Faridabad with directions to make earnest efforts for securing the attendance of defence witnesses.

6. The petition stands disposed of.

13.05.2025

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(KIRTI SINGH)
JUDGE