



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.62783 of 2023 (O&M)

Reserved on:03.02.2026

Pronounced on: 09.03.2026.

Sushil Kumar Gupta

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G., Haryana.

Mr. Abhishek Sharma, Advocate
for the respondents No.2 to 4 (through VC).

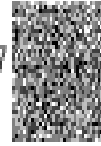
SURYA PARTAP SINGH, J. (Oral):

While conducting a trial for the commission of offence punishable under Sections 323, 325, 506 and 34 IPC, arising out of FIR No.320 dated 04.07.2022, Police Station Dabua District Faridabad. The learned Judicial Magistrate passed the following order on 09.10.2023:-

“Accused Jitender produced before me in custody.

His presence is marked. Let, he be kept in judicial custody and be produced before the court on 23.10.2023.

PW-2 Radhey Shyam is present and this cross examination is completely recorded today. No other PW is present today. Prosecution has availed several opportunities. This Court seems no justification to grant another opportunity



for prosecution evidence. Hence, the prosecution evidence is hereby closed by the court order.

Statement of accused persons under Section 313 Cr.P.C. be recorded on the date fixed.”

2. Aggrieved of the above mentioned order the complainant-petitioner, hereinafter being referred to as ‘petitioner’ only, filed a revision petition in the Court of Sessions. The above mentioned revision petition has been dealt with by the Court of learned Additional Sessions Judge, Faridabad. The learned Additional Sessions Judge, Faridabad although allowed the revision petition and set aside the above mentioned order dated 09.10.2023, hereinafter being referred to as ‘impugned order’ only, but the abovesaid Court issued a direction for examination of petitioner only, as prosecution witness. The above mentioned situation has generated an impression as if the learned Additional Sessions Judge while setting aside the impugned order had given a limited opportunity, only, to the prosecution, i.e. opportunity to complete the examination of petitioner only.

3. Aggrieved of the above mentioned approach adopted by the learned trial Court the petitioner has knocked the door of this Court. By virtue of present petition a direction has been sought for the learned trial Court to allow the prosecution to record the statement of all the unexamined witnesses.

4. Heard.

5. It has been contended by learned counsel for the petitioner that very purpose of conducting a trial i.e. dispensation of justice has been completely ignored in the present case and that the learned trial Court without



any justified reasons has curtailed the opportunity of the prosecution to lead its evidence. According to learned counsel for the petitioner the instant case is a very strange case wherein for the lapse committed by the officials of the Court, the petitioner, who is victim of assault, has been penalized. It has also been contended by learned counsel for the petitioner that even after the setting aside of the order dated 09.10.2023, by the Revisional Court, the learned trial Court is of the view that only one witness, and not all the remaining unexamined witnesses, are supposed to be examined by the learned trial Court.

6. With regard to above, the learned counsel for the petitioner has contended that once the order dated 09.10.2023 itself stands set aside the natural interpretation of the order passed by the learned Revisional Court would be that all the unexamined witnesses can be examined by the prosecution, and not the petitioner only. In view of above, the learned counsel for the petitioner has urged for accepting the present revision petition, and to issue a direction to the learned trial Court to afford opportunity to the prosecution to examine all the remaining witnesses.

7. The learned State counsel has opted not to controvert the above mentioned arguments.

8. The learned counsel for the respondents No.2 to 4 has controverted the above mentioned arguments. According to learned counsel for the respondents No.2 to 4 in the present case a right approach has been adopted by the learned trial Court, as due to mischief being played by the petitioner there was undue delay in trial. According to learned counsel for the respondents No.2 to 4 ample opportunities have already been afforded to the



prosecution to lead its entire evidence but the petitioner and other witnesses have been avoiding their appearance in the Court, and therefore, after giving adequate opportunities to the prosecution, to lead its evidence, it has rightly been observed by the learned trial Court that there was no justification in further adjournment of the case for prosecution evidence.

9. The learned counsel for the respondents No.2 to 4 has further contended that this plea of the petitioner is also wrong that the revisional Court should have been permitted the prosecution to examine all the witnesses, who are yet to be examined in the present case. According to learned counsel for the respondents No.2 to 4 there is very specific direction in the order passed by the Revisional Court that only the examination of petitioner is supposed to be recorded, and not of any other witnesses.

10. The record has been perused carefully.

11. A perusal of record shows that the present case is an example of total non-application of mind by the learned trial Court, as the contents of daily orders recorded by the trial Court show that on almost on each and every date, when the date was fixed for prosecution evidence, the summons to the witnesses were not issued by the concerned official of the Court. However, despite repeated lapse of the officials of the Court, instead of taking any action against the defaulting officials the learned trial Court out of blue recorded that already several opportunities have been afforded to the prosecution to lead its evidence and closed the prosecution evidence. Thus, there was no justification in the above mentioned approach adopted by the learned trial Court, as for want of issuing of summons if the witnesses could not turn-up before the Court



the fault lies with the process of the Court and not with the prosecution. Thus, for such situation the prosecution or the petitioner should not have been penalized.

12. In view of above, it is hereby observed that the order dated 09.10.2023, passed by the learned trial Court is nothing but travesty of justice and that is why the same has been set aside by the learned Additional Sessions Judge in the revision petition.

13. The strange approach of the learned trial Court is further reflected from the fact that although the learned Additional Sessions Judge while concluding its order has directed the learned trial Court to complete the examination of petitioner as witness, but at the same time it has set aside the order dated 09.10.2023 which means that the learned trial Court should have presumed as if the order dated 09.10.2023 had never been passed. The impact of setting-aside of order dated 09.10.2023, by the revisional Court, is that the prosecution was at liberty to examine all the unexamined witnesses mentioned in the list of witnesses. Thus this approach of learned trial Court while observing that despite order by the learned Revisional Court only statement of the petitioner is to be recorded, or not of others, is again erroneous.

14. As a sequel to above mentioned observations it is hereby observed that the order dated 09.10.2023, which has already been set aside by the learned Revisional Court, is perverse order and after setting aside of above mentioned order the learned trial Court is duty bound to examine all the unexamined witnesses as per list of witnesses submitted by the prosecution.

15. In view of the fact that learned trial Court has been adopting a



very strange approach in the present case despite direction by the Revisional Court, the learned Sessions Judge Faridbada, is hereby requested to sensitize the learned Presiding Officer *firstly*, with regard to the fact that before closing of prosecution evidence it should have been ensured that adequate opportunities should have been given to the prosecution and *secondly*, it should refrain from mis-interpreting the order passed by the Revisional Court.

16. With the above mentioned observations the present petition stands **allowed** accordingly. The learned trial Court is directed to afford adequate effective opportunities to the prosecution to examine all the witnesses. The learned trial Court is also directed to ensure that summons to the witnesses are duly issued and if despite service of summons the witnesses do not turn up then, to procure their presence, adopt coercive method.

17. The present petition stands disposed of accordingly.
Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

09.03.2026
Manoj Bhutani

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