

(2011) 08 P&H CK 0236

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-34690 of 2010

Tara Chand Verma

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Aug. 3, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 311, 313

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ajai Lamba, J.

This petition is directed against order dated 15.6.2010 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Palwal, vide which, the application filed on behalf of the complainant u/s 311 Code of Criminal Procedure for additional evidence has been rejected. Petitioner carried a revision that has been dismissed by the Additional Sessions Judge, Palwal, vide order dated 8.10.2010 (Annexure P-3).

2. The circumstances taken into account by the Judicial Magistrate Ist Class in order dated 15.6.2010 so as to dismiss the application filed by the Petitioner, are that the charge was framed on 10.1.2004. Thereafter, the prosecution was given 12 effective opportunities including last opportunity to conclude its entire evidence. Prosecution, however, failed to conclude its evidence and ultimately, the evidence had to be closed by order of Court on 5.8.2009. The case was adjourned to 10.8.2009 for recording statement of accused u/s 313 Code of Criminal Procedure The statement of accused was recorded and the case was fixed for defence evidence, if any, and for arguments. It is at that stage that present application was filed.

3. The main contention of the learned Counsel before the Magistrate was that Petitioner was in Australia from 17.9.2008 to 6.9.2009, and therefore, could not appear as a witness to give statement.

4. The argument is not available to the Petitioner because the case had been fixed for prosecution evidence in 2004 itself, where after 12 effective opportunities were given. The Petitioner was in Australia only during the period September 2008 to September 2009. The conduct of the Petitioner has been casual. A litigant is required to be vigilant. I do not trace any illegality in the order passed by the Judicial Magistrate Ist Class, so as to call for interference.

5. The petition is dismissed.