

(2010) 11 P&H CK 0656

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 3080 of 2010

Rajesh

APPELLANT

Vs

Bhagirah and Others

RESPONDENT

Date of Decision: Nov. 18, 2010

Acts Referred:

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

Hon'ble Judges: Rajan Gupta, J

Bench: Single Bench

Judgement

Rajan Gupta, J.

The Petitioner has impugned the order passed by Judicial Magistrate 1st Class, Palwal, dated 9.11.2010 whereby application moved by the State u/s 311 Code of Criminal Procedure has been dismissed.

2. Learned Counsel submits that Petitioner was never served with summon by the prosecution which led to his failure to appear before the trial court. Learned Counsel further submits that Petitioner needs only one opportunity to appear as a witness and depose before the court.

3. Notice of motion.

4. On the asking of the court, Ms. Shalini Atri, DAG, Haryana accepts notice.

5. Heard.

6. Keeping in view the well settled legal proposition that provisions of Section 311 Code of Criminal Procedure are to be interpreted liberally, this Court is of the view that one opportunity should be granted to the Petitioner to appear before the court and depose as a witness.

7. Consequently, this petition is allowed. The impugned order is set aside and trial court is directed to grant one opportunity to the prosecution to examine witness

Rajesh (Petitioner herein). In case the trial court finds that prosecution did not take any steps to serve the witness, it shall be at liberty to impose such costs on the State as deemed fit in the facts and circumstances of the case.

Disposed of.