

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-2136 of 2015

Date of Decision: January 23, 2015

Sharwan Kumar

...Petitioner

VERSUS

Pritpal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjiv Kumar Yadav, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing the impugned order dated 13.01.2015 passed by learned Chief Judicial Magistrate, Ambala whereby the application under Section 311 Cr.P.C. filed by the petitioner has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that application was moved by Sharwan Kumar for examining the prosecution witnesses i.e. Investigating Officer ASI Naresh Kumar and Lamberdar Ashok Kumar. Learned CJM, Ambala vide impugned order dated 13.01.2015 held that the case is pertaining to the year 2008 and charge had been framed on 16.03.2010. Since then, the prosecution had been granted more than 20 opportunities including five last opportunities to

conclude its evidence. The witnesses sought be to examined by the applicant by means of the present application had also been summoned several times but the summons issued to them had repeatedly been received back unexecuted. It is also stated in the order that applicant was aware of the proceedings of the present case from the very beginning but has filed the present application at a much belated stage when the case is fixed for defence evidence, if any and arguments.

The perusal of the impugned order dated 13.01.2015 passed by learned CJM, Ambala shows that no illegality has been committed by the Court below in the present case. Though, the interim orders have been placed on record to show that the Court has fixed the case for examining witnesses as well as also for recording statement under Section 313 Cr.P.C. but no illegality has been committed as per the procedure. Firstly, evidence of the prosecution is to be closed and then statement under Section 313 Cr.P.C. is to be recorded. The Court just to take extra precaution has stated that opportunity is granted to the prosecution to produce the evidence on the next date, otherwise statement under Section 313 Cr.P.C. will be recorded. Therefore, in no way, the interim orders can be held as illegal. On 16.12.2014, statement of accused under Section 313 Cr.P.C. has been recorded which means that no PW was present on that day for examination and in the earlier order dated 02.12.2014, the case was fixed for 16.12.2014 for recording the statement under Section 313 Cr.P.C. but it was stated that if any witness comes

present on that date, then his/her statement will be recorded.

Furthermore, the perusal of the impugned order shows that twenty opportunities have been granted to the prosecution to close the evidence including five last opportunities. The FIR under Sections 420, 467, 468, 471, 120-B and 506 IPC is relating back to 07.12.2007. The criminal trial cannot be allowed to continue for unlimited period or for years together.

Learned counsel for the petitioner has cited judgment passed by the Hon'ble Supreme Court in ***P.Ramachandra Rao vs. State of Karnataka in Appeal (Crl.) 535 of 2000 decided on 16.04.2002***. I have gone through this cited judgment and the same having distinguished facts will not apply in the present case.

In view of the above discussion, I find that the impugned order dated 13.01.2015 passed by learned CJM, Ambala is correct and as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

January 23, 2015
Vgulati

(INDERJIT SINGH)
JUDGE