

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-21514 of 2014

Date of Decision:-6.1.2015

Nandan Petrochem Ltd.

...Petitioner

Versus

M/s Singla Agencies

...Respondent

CORAM: HON'BLE MR.JUSTICE MEHINDER SINGH SULLAR

Present:- Mr.P.S.Ahluwalia, Advocate for the petitioner.

Mr.Manish Kumar Singla, Advocate for the respondent.

Mehinder Singh Sullar, J. (Oral)

The matrix of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, is that initially, in the wake of private criminal complaint (Annexure P3) filed by complainant-respondent M/s Singla Agencies, M/s Meguin Oil India and its Chairman Narain Aggarwal, were summoned as accused to face the trial for the commission of an offence punishable u/s 406 read with section 34 IPC, vide impugned summoning order dated 26.9.2011 (Annexure P4) by the trial Magistrate.

2. Sequelly, it is not a matter of dispute that accused-company has already been amalgamated in petitioner-company Nandan Petrochem Limited, by virtue of order dated 15.1.2001 (Annexure P1) of Government of India.

3. Aggrieved by the impugned summoning order (Annexure P4), the revision petition No.2 of 7.1.2012 (Annexure P5) filed by the petitioner-transferee company was dismissed as time barred, by way of impugned order dated 18.9.2013 (Annexure P6) by the Revisional Court.

4. Likewise, the petitioner-transferee company did not feel satisfied and preferred the present petition to challenge the impugned orders (Annexures P4 and P6), invoking the provisions of Section 482 Cr.PC.

5. Having heard the learned counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to my mind, the instant petition deserves to be accepted for the reasons mentioned here-in-below.

6. As is evident from the record that initially, the complainant firm has filed the private criminal complaint (Annexure P3), in which, the original company and its chairman were summoned to face the trial, vide impugned summoning order (Annexure P4). Having ignored the material on record, the revision petition (Annexure P5) was dismissed as time barred, mainly on the ground that the accused-company did not produce any evidence on record in this regard, by means of impugned order (Annexure P6), by the revisional Court.

7. Such thus being the position on record, now the short & significant question, though important, which invites an immediate attention of this court and arises for determination in the present petition, is as to whether the revision petition filed by the accused company was within limitation or not ?

8. Having regard to the rival contentions of the learned counsel for the parties, to me, the answer must obviously be in the affirmative.

9. As the bare perusal of the interim orders available on record would reveal that the accused company was summoned, vide impugned summoning order dated 26.9.2011 for 31.10.2011 to face the trial of indicated offences by the trial Court. On that day, summons issued for

service of the accused were not received back from Mumbai and fresh summons were ordered to be issued through registered post for 1.12.2011, by virtue of order dated 31.10.2011. On that day, since the Presiding Officer was on Ex-India Leave, so the file was placed before and fresh notice was again ordered to be issued for 11.1.2012, by way of order dated 1.12.2011 by the duty Magistrate .

10. Meanwhile, the accused-company has received the pointed summons on 22.12.2011, whereas the revision petition was filed by it on 7.1.2012. The learned counsel for respondent has fairly acknowledged the factual matrix. Therefore, once it is proved on record that the accused company has received summons on 22.12.2011, in that eventuality, the revision petition (Annexure P5) filed by it on 7.1.2012, was very well within the prescribed period of limitation. Meaning thereby, the revisional Court has just ignored the indicated material on record and slipped into a deep legal error to dismiss the revision petition as time barred in this relevant connection in a very casual manner, by virtue of very brief impugned order.

11. Therefore, it cannot possibly and indeed could not be saith, by any stretch of imagination, that the revision petition filed by the accused company was time barred, as contrary held by the revisional Court. Thus, to my mind, the revisional Court did not exercise its jurisdiction, which was vested in it, committed a jurisdictional error and patent illegality to dismiss the revision petition as time barred. Such impugned order cannot legally be sustained in the obtaining circumstances of the case.

12. In the light of aforesaid reasons, the instant petition is accepted.

The impugned order dated 18.9.2013 (Annexure P6) is hereby set aside.

Consequently, the matter is remitted back to the revisional Court to decide the revision petition on merits in accordance with law.

At the same time, the parties through their counsel are directed to appear before the revisional Court on 5.2.2015 for further proceedings.

6.1.2015
AS

(Mehinder Singh Sullar)
Judge