

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-24250 of 2015

Date of decision: November 05, 2015

Onkar Singh @ Lalli and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Dr.Surya Prakash, Advocate
for the petitioners.

Ms.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for setting aside the order dated 14.07.2015 passed by learned trial Court in case FIR No.34 dated 27.02.2013 under Sections 302, 307, 427, 506, 148, 149, 120-B, 201, 336, 465, 468, 478 IPC and Sections 25 and 27 of the Arms Act, registered at Police Station Mataur, vide which the opportunity of the petitioners to summon the witnesses in their defence has been closed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that vide order dated 14.07.2015 learned Addl. Sessions Judge, Mohali has dismissed two separate applications filed by accused Onkar Singh and Sanveer Singh as well as Dharminder Singh for adjournment because a petition has been filed in the High Court wherein the matter regarding the CCTV footage is pending. Learned trial Court held that the Hon'ble High Court has not issued any directions to the trial Court concerning the trial of the case and nine accused are in custody since long and case is pending for defence evidence. So, the trial Court declined to adjourn the case. It is also in the order that accused Deepak Kaushal has filed application to summon Kuldeep Singh and Rajinder Kumar and there summons were issued accordingly for 20.07.2015. It is also held in the order that the remaining accused have neither produced any DW nor filed application or list of DWs except accused Rajat Sharma, whose list of DWs has since exhausted. The Court held that as the remaining accused have failed to file any list of DWs despite availing three effective opportunities, it means that they do not want to lead the defence evidence and it was made clear that no further opportunity shall be granted to them to summon the DWs.

The order dated 14.07.2015 passed by learned Addl. Sessions Judge, Mohali, in no way, suffers from any illegality. It is admitted fact that no list to summon defence witnesses has been filed by the present petitioners before the trial Court. Even in the present petition, nothing has been mentioned as to which evidence the petitioners want to produce before the trial Court.

At the time of arguments, learned counsel for the petitioners argued that the petition under Section 482 Cr.P.C. has been filed before this Court in which the direction has been sought to the Investigating Officer to produce CCTV footage. On this argument, I find that vide my separate order that petition under Section 482 Cr.P.C. has been dismissed today itself. At the time of arguments, learned counsel for the petitioners also argued that petitioners want to lead the evidence only regarding that CCTV footage by getting it produced from the Investigating Officer. As the petition under Section 482 Cr.P.C. for giving directions to produce the CCTV footage has been dismissed, therefore, the impugned order will not affect the rights of the accused as they do not want to lead any other evidence. Otherwise also, in the impugned order dated 14.07.2015, it is only held that these petitioners will not get any further opportunity to summon the DWs but they can produce the same at own responsibility in the Court. This order, in no way, can be held as perverse as their evidence has not been closed by order. Furthermore, the impugned order passed by learned Addl. Sessions Judge, Mohali is also as per law as the proceedings have not been stayed by this Court in that petition nor any direction was given to the trial Court to adjourn the case. Therefore, mere pendency of the petition before this Court will not amount to stay of the proceedings before the trial Court nor trial Court is supposed to adjourn the proceedings beyond the date fixed in this Court.

Learned Addl. Sessions Judge, Mohali has correctly

dismissed the applications filed by the present petitioners for adjourning the case.

In view of the above discussion, I do not find any merit in the present petition and the same is dismissed.

November 05, 2015
Vgulati

(INDERJIT SINGH)
JUDGE