

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-27725-2015
Date of decision:20.8.2015**

Mahender Singh

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.B.S.Patwalia, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present petition, at the instance of the accused, under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), is directed against the orders dated 12.2.2015 (Annexure P-6) passed by the learned Sub-Divisional Judicial Magistrate, Bahadurgarh, whereby an application of the prosecution under Section 311 Cr.P.C. was allowed and also the order dated 27.5.2015 passed by the learned Additional Sessions Judge, Jhajjar (Annexure P-8), whereby revision filed by the accused persons including the petitioner, was dismissed, upholding the above-said order passed by the learned Sub Divisional Judicial Magistrate, Bahadurgarh.

Learned counsel for the petitioner submits that the application under Section 311 Cr.P.C., moved by the prosecution, was not maintainable at this belated stage of the trial, because the accused persons including the petitioner had been facing the trial for the last about 8 years. He further submits that prosecution wanted to fill up serious lacuna in its case, which is not permissible. He concluded by submitting that since both the learned courts

have misdirected themselves, while passing their respective impugned orders, the same are liable to be set aside. He prays for setting aside the impugned orders, by allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the present case, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinabove.

A combined reading of both the impugned orders passed by the learned courts would show that each and every aspect of the matter has been discussed in detail and appreciated in the correct perspective, before arriving at their judicious conclusions. So far as the delay part is concerned, learned counsel for the petitioner could not point out anything from the record of the case, as to who has been responsible for delaying the trial so far. Having said that, this Court feels no hesitation to conclude that it cannot be presumed in favour of the petitioner that he himself or his other co-accused might have not been responsible for most of the delay occasioned so far in the trial of the case.

Further, so far as filling up of the alleged lacuna in the prosecution case is concerned, nothing has been pointed out by the learned counsel for the petitioner, so as to substantiate this argument raised by him. In fact, either of the courts have not exceeded its jurisdiction, while passing their impugned orders. . In such a situation, it can be safely concluded that

neither the learned trial Court nor the revisional court have committed any error of law, while passing their respective impugned orders and the same deserve to be upheld, for this reason also.

Operative part of the order passed by the learned Sub Divisional Judicial Magistrate, Bahadurgarh would show that the learned trial Judge was well aware about the scope and ambit of Section 311 Cr.P.C. The laudable object behind the intention of the legislature for providing Section 311 Cr.P.C. on the statute book is that a fair chance must be given to both the parties to put up their case before the Court. It is equally pertinent to note here that no prejudice of any kind, whatsoever, has been shown to have been caused to the petitioner by passing the impugned orders. Under these circumstances, it is unhesitatingly held that the learned trial Judge as well as learned revisional Court were well within their jurisdiction, while passing their respective impugned orders.

None out of the impugned orders has been found to be suffering from any patent illegality because of which the impugned orders deserve to be upheld. No doubt, powers of this Court under Section 482 Cr.P.C. are wide enough but it is equally true that the inherent powers under Section 482 are to be exercised by this Court sparingly and with circumspection. After due consideration of the matter, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noticed above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition is wholly misconceived, bereft of

merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present petition stands dismissed, however, with no order as to costs.

20.8.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE