

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

CRM-M-33772 OF 2013
Date of decision: 20.01.2015

Ramesh Kanta and another *.....Petitioners*

versus

Sushil Kumar *..... Respondent*

CORAM : Hon'ble Mr. Justice Naresh Kumar Sanghi

Present: Mr. Vishvanath Sharma, Advocate
for the petitioners.

Mr. Gurmeet Singh Saini, Advocate
for respondent.

Naresh Kumar Sanghi, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C., by Ramesh Kanta (wife) and Shallu @ Suman Bala (daughter) of respondent Sushil Kumar for quashing the order dated 17.08.2013 (Annexure P-6) passed by learned Additional Sessions Judge, Sri Muktsar Sahib vide which an application moved by the petitioners for revival of the revision petition which was ordered to be dismissed as withdrawn vide order dated 19.01.2011 (Annexure P-4) was permitted to be withdrawn and at the same time the application moved by the petitioners for allowing them to lead additional evidence was allowed vide order dated 19.01.2011.

The petitioner led the additional evidence in consonance with the order dated 19.01.2011 passed by learned Additional Sessions Judge, Sri Muktsar Sahib. The respondent was also afforded an opportunity to rebut the additional evidence. After completion of evidence of both the sides, the learned trial Court did not pass any further order except for directions to attach the additional evidence with the file of criminal revision petition decided on 19.01.2011. The petitioners moved an application before learned Additional Sessions Judge, Sri Muktsar Sahib for revival of their criminal revision petition which was decided on 19.01.2011 but the same was dismissed vide order dated 17.08.2013 (Annexure P-6) holding that after withdrawal of the criminal revision petition, the application for its revival was not maintainable.

Learned counsel for the petitioners contends that at the time of allowing the additional evidence, learned Additional Sessions Judge, Sri Mukhtsar Sahib should have either directed the learned trial Court to pass the fresh order on the application under Section 127 Cr.P.C., after recording of the additional evidence by both the sides or should have directed the trial Court to send the additional evidence to the revisional Court for

contesting the revision petition on the basis of additional evidence. The revisional Court has not passed either of the said order, therefore, incomplete orders were passed on 19.01.2011. He further contends that when an application for revival of the said order was moved, the same was also illegally dismissed.

In view of the inadvertent anomaly in the proceedings before learned Additional Sessions Judge, Sri Mukhtsar Sahib, learned counsel for the respondent submits that he has no objection, if the criminal revision petition decided on 19.01.2011 is remitted to the said Court for decision afresh, after taking into consideration the additional evidence led by both the parties.

In view of the above facts and the submission made by the learned counsel for the respondent, the order dated 19.01.2011 (Annexure P-4) whereby the criminal revision petition was ordered to be withdrawn is set aside and the criminal revision petition is ordered to be restored to the board of learned Additional Sessions Judge, Sri Mukhtsar Sahib for decision afresh after taking into consideration the additional evidence led by both the parties as per the orders dated 19.01.2011 (Annexure P-4).

In view of the above, the order dated 17.08.2013

(Annexure P-6) is also set aside.

Keeping in view the totality of facts and circumstances of the case, the present petition is disposed of, criminal revision petition decided by learned Additional Sessions Judge, Sri Muktsar Sahib vide order dated 19.01.2011 is ordered to be restored to his board and he would decide the said criminal revision petition after taking into consideration the additional evidence led by both the parties as per his directions issued on 19.01.2011.

Parties would appear before learned Additional Sessions Judge, Sri Muktsar Sahib on 16.02.2015.

January 20, 2015
Naveen

(NARESH KUMAR SANGHI)
JUDGE