

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

**CRM-M-34999-2014
Date of decision:1.10.2015**

Lalit Kumar

...Petitioner

Versus

Surinder Kaur

...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.Gurcharan Dass, Advocate for the petitioner.
Mr.Harkanwarjeet Singh Kathpal, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Present petition is directed against the order dated 12.9.2014 passed by the learned Additional Sessions Judge, Ludhiana, whereby application of the petitioner filed under Section 391 read with Section 311 Cr.P.C., seeking to lead additional evidence, during the pendency of his appeal against conviction, was dismissed

Notice of motion was issued.

Learned counsel for the petitioner submits that the learned first appellate court has committed a serious error of law, while passing the impugned order. True facts of the case were not appreciated in the correct perspective. He further submits that petitioner was having a genuine cause for bringing on record the evidence, which was in his possession but could not be brought on record at the appropriate time, during the course of trial, because of inadvertent mistake on the part of his counsel. In such a situation, the learned Additional Sessions Judge ought to have allowed the

application of the petitioner. He concluded by submitting that since the legal as well as factual aspect of the matter was not properly appreciated, the impugned order deserves to be set aside, by allowing the present petition.

On the other hand, learned counsel for the complainant-respondent vehemently contended that the present petition is wholly misconceived for the reason that it was the petitioner who himself closed his evidence. All the documents, which were sought to be produced, were in his possession but for the reasons best known to him, he did not produce those documents, while leading his evidence. The learned first appellate court has rightly passed the impugned order which deserves to be upheld.

Having heard the learned counsel for the parties 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 case noticed hereinabove, 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 hereinafter.

It has gone undisputed on record that all the documents which were sought to be produced by the petitioner during the pendency of his appeal, were in his possession all through. It is also not in dispute that petitioner closed his evidence, after availing so many opportunities before the learned trial Court. It is also not the case of the petitioner that the learned trial Court did not grant sufficient time to the petitioner to lead his entire evidence, during the course of the trial. Having said that, this Court

feels no hesitation to conclude that it was too late in the day to permit the petitioner to lead the additional evidence, during the pendency of his appeal against conviction. The impugned order has not been found to be suffering from any patent illegality and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality apparent on the record of the case, in the impugned order so as to enable this Court to interfere, while exercising its inherent jurisdiction under Section 482 Cr.P.C. Under these circumstances, it can be safely concluded that the learned Additional Sessions Judge committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted 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.

1.10.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE