

In the High Court of Punjab and Haryana at Chandigarh

248

CRM-M-44226-2014

Date of decision: 4.5.2015

RAJ KUMAR GUPTA

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Amit Dhawan, Advocate,
for the petitioner.

Mr.Varun Sharma, AAG, Punjab.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.

Vide this petition, quashing of order dated 28.11.2014 (Annexure P-5), passed by the Additional Sessions Judge, Fast Track Court (Adhoc), Jalandhar has been sought on the ground that petitioner is facing trial in case FIR No. 302 dated 21.12.2007 registered under Sections 420, 465, 468, 471, 120-B IPC at Police Station Shahkot District Jalandhar. After filing challan, prosecution evidence started, which was ultimately ordered to be closed on 18.11.2013. Thereafter, statement of

the accused under Section 313 Cr.P.C. was recorded and case was fixed for defence evidence, if any, or for arguments.

Complainant filed an application under Section 311 Cr.P.C. and the said application was rejected by the trial Court on 12.2.2014 (Annexure P-4)

Feeling aggrieved against the order dated 18.11.2013 (Annexure P-1), complainant ventured to file revision petition before Additional Sessions Judge, Fast Track Court, (Adhoc), Jalandhar in which petitioner was also impleaded as respondent No.4.

Learned counsel for the petitioner states that the said revision was decided by the revisional Court without issuing notice to the petitioner. Secondly, the said order has been assailed on the ground that revision arising out of order dated 18.11.2013 was not maintainable being a revision against an interlocutory order. Learned counsel cites decision of the Apex Court in **Sethuraman vs. Rajamanickam 2010 (5) RCR (Crl.) 512** to support his contention.

A perusal of the impugned order shows that the same has been passed only after hearing learned counsel for the revisionist as well as learned Additional Public Prosecutor for the State. Learned counsel for the petitioner has made a statement at the bar on the strength of affidavit filed with this petition that no notice was issued to the petitioner/ respondent No.4 in the

revision petition. Consequently, the order dated 28.11.2014 is found to have been passed without following principles of natural justice. The order closing evidence by order of the Court is an interlocutory order and the revision against the same was not maintainable before Additional Sessions Judge, Jalandhar.

From record, this Court found that respondents No.3 and 4 did not appear despite service on 4.2.2015 and 23.3.2015. As per office report, respondent No.2 was found residing in England. She was ordered to be served through counsel appearing before lower Court. Now office report dated 23.3.2015 reveals that service qua respondent No.2 is also complete. None has put in appearance on behalf of respondents No.2 to 4 despite service, therefore, the case is being decided in their absence.

Accordingly, this petition is allowed. Impugned order dated 28.11.2014 is quashed.

Parties are at liberty to avail any other remedy available to them under law.

(RAJ MOHAN SINGH)
JUDGE

April 04, 2015
anita