

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Cr. OCP No. 4 of 2015

Date of decision: 13-3-2015

Chaman Lal Goyal ... Petitioner

Versus.

Ms. Shilpi Gupta and others ... Respondents

**CORAM:- HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr. Chaman Lal Goel, petitioner in person.

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M. JEYAPPAUL, J:

1. This contempt proceedings are initiated by Chaman Lal Goel, father of the complainant Meenakshi, who was appointed as Special Public Prosecutor to prosecute the criminal proceedings before the trial Court.

2. The 6th respondent Alok Garg and 7th respondent Arti Garg moved a petition before this Court invoking the provisions under Section 482 Cr.P.C. challenging the charge framed as against them by the Judicial Magistrate I Class, Chandigarh on 26.9.1996. This Court vide order dated 9.5.1997 dismissed the above petition under Section 482 Cr. P.C. as withdrawn but the appearance of 7th respondent Arti Garg before the learned Judicial Magistrate during the course of trial was exempted but a direction was issued by this Court that she should appear before the Judicial Magistrate at the time of recording of her statement under Section 313 Cr. P.C. and also on the

pronouncement of the final order.

3. There is no dispute to the fact that all the accused remained present before the trial Court to put forth their plea under Section 313 Cr.P.C. in connection with incriminating circumstances brought to their individual notice. But the respondents 2 to 7 were not present; however, respondents 8 and 9 alone were present at the time when the judgment of acquittal was recorded by the trial Court.

4. It was contended by the petitioner Chaman Lal Goyal that respondents 2 to 7 had wantonly absented themselves during the pronouncement of the final judgment by the trial Court on 26.2.2014 and therefore, they have exposed themselves to the contempt of Court.

5. The presence of the accused on the date of pronouncement of the judgment is insisted even if they are on bail, only to give an opportunity to the accused concerned to put forth some plea as regards the quantum of sentence to be awarded by the trial court. In case the trial Court finds that the prosecution has failed to prove the charges and ultimately, it has taken a decision to acquit the accused, the appearance of the accused who are on bail is redundant. Even in a case where the trial Court passes a judgment of conviction in the absence of an accused, it can wait for reasonable time to bring the accused for putting forth his plea as regards the quantum of sentence. The trial Court even in the absence of the accused, under the above circumstances, is competent to pass the judgment of conviction and sentence after affording a reasonable opportunity to the accused.

6. In the instant case, the trial Court chose to record acquittal. The same has been challenged by the complainant before the Appellate Forum.

There was no necessity for the accused to appear on the day of pronouncement of judgment of acquittal. No prejudice also has been caused to the petitioner herein on account of the non-appearance of the accused to receive the judgment of acquittal. Uncharitable remarks had been made by the petitioner as against the learned Judicial Officer who disposed of the criminal case.

7. In view of the above, we find that no criminal contempt has been made out as against the respondents. Therefore, the contempt petition is dismissed in limine.

(M. JEYAPPAUL)
JUDGE

(NARESH KUMAR SANGHI)
JUDGE

March 13, 2015
JS