

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 280 of 2015

Date of decision: March 24, 2015

Jagroop Singh

.... Petitioner

Versus

State of Punjab through Ram Krishan

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jagdeep Singh Virk, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Punjab.

Mr. Rajesh Punj, Advocate
for the complainant.

Jaspal Singh, J.(Oral)

Aggrieved against order dated January 05, 2015 passed by learned Additional Sessions Judge, Patiala whereby, CRR No. 60 dated December 17, 2014 captioned as **State of Punjab through Ram Krishan vs. Jagroop Singh** has been accepted and order dated November 27, 2014 passed by learned Judicial Magistrate Ist Class, Patiala dismissing an application under Section 311 Cr.P.C. was set aside and learned trial Court was directed to provide two effective opportunities within one month from the date of receipt of said order to conclude its entire evidence.

2. The contention of learned counsel for petitioner is that he is facing trial since December 2009 for alleged commission of offences punishable under Sections 406, 420 and 506 IPC arising out of FIR No. 328 dated December 05, 2009, Police Station Civil Lines, Patiala, in which, charges were framed by learned trial Court on September 24, 2010. As prosecution failed to conclude its evidence despite having obtained 40 opportunities, its evidence was closed by orders of the

an application under Section 311 Cr.P.C. for summoning and examination of prosecution witness namely Bindu Bala, Incharge, Economic Offence Wing, Patiala and to place on record relevant documents i.e. Plaint, power of attorney and two passports of complainant-Ram Krishan. That application was dismissed by learned trial Court. However, in revision petition, said application was allowed as has been fully reflected in para 1 of this judgment.

3. Aggrieved against order whereby revision petition was disposed of, petitioner has come up with this revision petition.

4. The contention of learned counsel for the petitioner while challenging impugned order/judgment dated January 05, 2015 is that the same is absolutely against spirit of provision contained in Section 311 Cr.P.C., which has been mis-utilised while passing the impugned order by learned revisional court. The same is liable to be set aside inter-alia on the grounds that prosecution had already availed more than 40 opportunities to adduce and conclude its evidence and when failed, its evidence was closed by orders of learned trial Court; that charges in this case were framed on September 24, 2010 and since then, petitioner is facing pains and strains of protracted trial and that Bindu Bala was neither cited as witness in the report under Section 173 Cr.P.C. nor any document was sought to be placed on record. Moreover, provision of Section 311 Cr.P.C. cannot be utilised, that too, at the fag end of case, just to fill up lacunae in the prosecution case as has been done in the instant case. Accordingly, learned counsel for the petitioner prayed for setting aside impugned order/judgment.

5. Per contra, learned counsel for respondent has supported the impugned order/judgment and has submitted that in compliance of impugned order, respondent has already examined Bindu Bala and only documents were to be furnished. So, instant revision petition has otherwise become infructuous and on this score alone, instant petition is liable to be dismissed.

learned counsel for the parties and have perused the impugned order/judgment.

7. Before proceedings further to decide the petition on merit, it would be desirable to refer Section 311 Cr.P.C, which reads as under:

“311. Power to summon material witness, or examine person

Present:- Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential for the just decision of the case”.

8. A glance at the afore-said provision transpires that court has vast powers to examine any person at any stage of inquiry, trial or proceedings but under certain limitations that evidence so sought to be produced or witness to be examined is essential for just and proper adjudication of the case.

9. Adverting to the facts of the case in hand, no doubt a large number of opportunities were afforded to the prosecution by learned trial Court to adduce and conclude its evidence and that case was at its penultimate when an application under Section 311 Cr.P.C., was moved by prosecution. But the mere fact that application has been moved at the fag end of trial is itself no ground to decline the application.

10. Considering the fact that examination of Bindu Bala is essential for the just decision of the case, learend revisional court accepted the revision whereby, allowed an application under Section 311 Cr.P.C., but provided only two effective opportunities to conclude its evidence. Admittedly, prosecution has already examined Bidu Bala and must have also tendered the other evidence/documents as specific time was prescribed to adduce the additional evidence. Thus, instant revision petition has become infructuous.

11. Moreover, no prejudice is going to be caused to petitioner by examination of Bindu Bala as well as by production of documents, especially when

he shall have an opportunity to cross-examine these witnesses as well as to rebut the documents.

11. In the light what has been discussed above, instant revision petition being devoid of any merits is hereby, dismissed whereby, impugned order is upheld.

March 24, 2015
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(JASPAL SINGH)
JUDGE