

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3332-2015

Date of decision: 03.11.2015

Sukhwinder Singh and anr.

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Manuj Nagrath, Advocate
for the petitioners.

Mr. Daljit Singh Virk, AAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Present criminal revision petition is directed against the impugned order dated 30.07.2015 passed by the learned trial Court, whereby opportunity to cross-examine the witness i.e. PW2 was declined to the petitioners.

Learned counsel for the petitioners submits that petitioner never intended to delay the trial. Admittedly, copy of another FIR Mark 'A' was not supplied to the petitioner in advance. Said document was produced by the prosecution in the Court on 30.07.2015 itself. This was the reason that

learned counsel representing the petitioner before the learned trial Court sought a short date which was declined to him. Another strong reason for making request for adjournment on behalf of the petitioner was that he wanted to avoid recording the piece meal evidence. As per the stand taken by the petitioner, PW2 Inspector Brij Mohan as well as ASI Baldev Singh ought to have been examined on the same day, so as to avoid causing any prejudice to the defence. However, since the learned trial Court failed to appreciate this aspect of the matter, the impugned order has resulted in miscarriage of justice. He prays for allowing the present petition.

On the other hand, learned counsel for the State submits that petitioner wanted to delay the trial. He was trying to avoid cross-examination of PW2 without any justified reasons and the learned trial Court was well-justified in passing the impugned order which deserves to be upheld. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that the learned trial Court proceeded in a haste, while passing the impugned order and the same cannot be sustained.

It is a matter of record that copy of another FIR was produced before the Court for the first time on 30.07.2015 as Mark 'A' and copy thereof had not been supplied to the petitioner in advance. However, after the objection having been raised by learned counsel representing the petitioner before the learned trial Court, copy of the said FIR was supplied to him in the Court. Further, learned counsel for the petitioner has been found

justified in contending that petitioner wanted to avoid leading of piece meal evidence. The prayer made on behalf of the petitioner before the learned trial Court to ensure examination of PW2 Inspector Brij Mohan as well as ASI Baldev Singh together, was well-justified, so as to avoid any prejudice to the defence. However, since the learned trial Court failed to appreciate this aspect of the matter, in the correct perspective, the impugned order cannot be sustained, for this reason also.

It is the settled proposition of law that justice is not only to be done but also seems to have been done. Every Court must make an endeavour to grant reasonable opportunity to both the parties to put up their case before the Court. None of the parties to the litigation should be forced to go home with the grouse that he was not granted full opportunity to defend himself. Since the learned trial Court has not appreciated the genuine request made on behalf of the petitioner for examining both the abovesaid witnesses together, the impugned order has resulted in miscarriage of justice and the same cannot be sustained, for this reason as well.

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 instant petition deserves to be accepted. Accordingly, the impugned order dated 30.07.2015 passed by the learned trial Court is hereby set aside. The learned trial Court is directed to grant another opportunity to the petitioner to cross-examine PW2 Inspector Brij Mohan and shall also ensure that PW2 Inspector Brij Mohan as well as ASI Baldev

Singh are examined together on the same date of hearing, so as to avoid any prejudice to either of the parties.

Resultantly, with the abovesaid observations made and directions issued, present petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

03.11.2015
vishnu