

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRR-4167-2015****Date of decision: 30.10.2015**

Jasbir Kaur

...Petitioner

Versus

Beant Singh and another

...Respondents

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.L.M.Gulati, Advocate for the petitioner.**RAMESHWAR SINGH MALIK, J. (Oral)**

Feeling aggrieved against the impugned judgment dated 19.10.2015, whereby the learned Additional Sessions Judge, Amritsar, setting aside the judgment of acquittal, remanding the case back to the learned trial Court and granting three effective opportunities to the prosecution to conclude its evidence, accused-petitioner has approached this Court by way of instant criminal revision petition, for setting aside the impugned judgment.

Learned counsel for the petitioner places reliance on a judgment of the Hon'ble Supreme Court in **Raj Deo Sharma v. State of Bihar, 1999 (7) SCC 604**, to contend that the learned trial Court was well justified in closing the evidence of the prosecution. He further submits that since the learned Additional Sessions Judge has misdirected himself, while passing the impugned judgment, the same has resulted in miscarriage of justice, hence liable to be set aside. He prays for allowing the present petition.

Having heard the learned counsel for the petitioner 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 totality of facts and circumstances of the case, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one.

A close perusal of the impugned judgment would show that the learned Additional Sessions Judge was alive to the fact situation, including the delay that has occurred in the trial of the present case. This was the reason that while remanding the case back to the learned trial Court, the learned first appellate has directed that only three effective opportunities shall be granted to the prosecution to examine its remaining witnesses. Remand of the case and above-said direction was necessitated, because the learned trial Court has failed to take appropriate coercive steps, so as to ensure the presence of prosecution witnesses for their examination in the court.

No doubt, speedy trial is the valuable right of every accused, yet it is equally true that ground realities also cannot be ignored altogether. Sometimes, the prosecution might be having a genuine difficulty. No straight jacket formula can be and should be laid down for completion of trial within a specified time in every given situation. Each case would depend on its on peculiar facts and circumstances. However, it needs no emphasis that every learned trial Court must make an endeavour to conclude the trial as early as possible.

So far as the present case is concerned, the learned trial Court has failed to take appropriate coercive steps at the relevant stage of the trial,

because of which some of the material witnesses could not be examined, which was ultimately made the basis for acquittal. After carefully examining the factual as well as legal aspect of the matter, the learned Additional Sessions Judge has rightly passed the impugned judgment, remanding the case back to the learned trial Court, directing it to grant three more effective opportunities to the prosecution to produce its remaining evidence. The learned first appellate court has not been found to have exceeded its jurisdiction, while passing the impugned judgment and the same deserves to be upheld, for this reason also.

Coming to the judgment in **Raj Deo Sharma's** case (supra), there is no dispute about the law laid down therein. However, a careful perusal of the cited judgment would make it distinguishable on facts. Further it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others**, 2002 (3) SCC 533.

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.

30.10.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE