

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-717-2014

Date of decision: 07.08.2015

Anil Kumar Verma

... Petitioner

Vs.

Sanjiv Kumar and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Amandeep Soni, Advocate
for the petitioner.

Ms. Anju Bansal, Advocate for
Mr. Mohit Sadara, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant criminal revision petition is directed against the order dated 14.01.2014 passed by learned Judicial Magistrate 1st Class, Jalandhar, whereby pre-charge evidence of the petitioner-complainant was closed.

Notice of motion was issued.

Learned counsel for the petitioner submits that although as many as 13 opportunities were granted to the petitioner for leading his pre-charge evidence, yet the petitioner could not conclude his pre-charge evidence because on many of the dates of hearing, it was the respondents who kept on seeking adjournments. She further submits that petitioner will be satisfied if only one opportunity is granted to him by imposing the reasonable cost. She prays for allowing the present petition.

On the other hand, learned counsel for respondent No.1 submits that as rightly admitted by learned counsel for the petitioner that as many as

13 effective opportunities were granted to the petitioner for leading his pre-charge evidence, no more opportunity is required to be granted to the petitioner. She further submits that hardly any adjournment was sought by the respondents before the learned trial Court and it was only the petitioner who had been delaying the matter for the reasons best known to him. She prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the totality of facts and circumstances of the case, petitioner has been found entitled for granting one more opportunity to conclude his pre-charge evidence, however, subject to payment of Rs.15,000/- as costs, to be paid by him to the respondents.

It is the settled proposition of law that both the parties, during the course of litigation, should be granted sufficient opportunity to prove their respective case, before the learned Court. In the instant case, learned counsel for the petitioner has fairly conceded that although many opportunities were granted to the petitioner yet because of some bonafide reasons beyond his control, he could not conclude his pre-charge evidence in time. Since the petitioner is the complainant, he was not going to gain anything in delaying the matter, until and unless contrary is pleaded and proved, which is not the fact situation in the present case.

Further, if the petitioner is granted another opportunity on payment of costs, as indicated above, no prejudice is going to be caused to the respondents. It is equally true that justice is not only to be done, but it

should also seem to have been done.

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 present petition deserves to be allowed.

Consequently, impugned order dated 14.01.2014 passed by learned Judicial Magistrate 1st Class, Jalandhar, whereby pre-charge evidence of the petitioner-complainant was closed, is hereby set aside. Petitioner is granted another opportunity to conclude his pre-charge evidence, however, subject to payment of Rs.15,000/- as costs, to be paid by the petitioner to the respondents before the learned trial Court on the next date of hearing.

It is also made clear that petitioner shall bring the entire remaining pre-charge evidence on his own responsibility and shall conclude the same after availing one effective opportunity for the said purpose. Learned trial Court is directed to grant one more effective opportunity to the petitioner to enable him to conclude his pre-charge evidence.

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

[RAMESHWAR SINGH MALIK]
JUDGE

07.08.2015
vishnu