

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

CRR No.980 of 2014
Date of Decision: June 29, 2015

Central Bureau of Investigation

...Petitioner

Versus

Rajneesh Sharma and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sumeet Goel, Advocate
for the petitioner.

Mr. V.D. Sharma, Advocate
for the respondents.

FATEH DEEP SINGH, J.

The short point involved in this criminal revision petition by the petitioner-Central Bureau of Investigation is that in the complaint bearing No.RC No.15/02/CBI/CHD under Section 120B; R/O 420,409,468,471 IPC lodged by the petitioner against the respondent through impugned orders dated 15.3.2014 the Court of learned Chief Judicial Magistrate, Chandigarh closed the evidence of the prosecution by order and, thus, it is claimed that immense prejudice has been caused to the petitioner who has invoked the jurisdiction of this Court.

Heard learned counsel for the parties. The contention of the learned counsel for the petitioner that no doubt 33 effective opportunities to lead evidence were afforded by the Court below but in view of the tedious nature of the evidence

which was voluminous has necessitated this prolongation and that all of a sudden the learned trial Court has closed the evidence without affording adequate and reasonable opportunities and which arguments have sought to be refuted with much elance and vehemence on behalf of the respondents arguing that it was the own intentional lapse which has led to this does not augurs well to the case of the petitioner who was lethargic enough to lead and complete their evidence. The Courts are handmaids of justice for amelioration of justice to everyone and there can be no unjust treatment in the dispensation of justice. No doubt, in a criminal case the onus and burden is on the prosecution to examine and complete its evidence within the shortest possible period of time but at the same time it does not absolves the Court of its obligation towards dispensation of justice and ensuring that the witnesses so proposed to be summoned if show reluctance are brought before the Court through coercive process. If such a recourse is not adopted there is every likelihood that in important and sensitive cases there will be thwarting of justice on such a frivolous plea of keeping away witnesses from the Court. In the Code of Criminal Procedure provisions by way of Chapter VI providing for the service of summons, warrant have been made and by virtue of Section 87 contained in Part-D of this Chapter empowers the Court to issue a summons or warrants as the case may be and which are applicable in respect of every summons and every warrants of arrest issued under this Code by virtue of Section 90 Cr.P.C.

As has been brought to the notice of this Court, no doubt, the case was covered under the Action Plan of the Court

and for whose disposal only administrative guidelines have been issued by this Court to ensure speedy disposal of such categories of cases but that does not mean or can be construed that there is a judicial order to subvert the due process of law by robbing the parties of their legitimate right of leading evidence.

As is borne out from the arguments of the two sides only two witnesses need to be examined out of whom examination-in-chief of one of the witness has been fully recorded and of the other partly recorded are matters which certainly impinge the judicial conscience as there is nothing reflective that the trial Court had sought to use coercive process to call for these witnesses and rather has acted on the premise that it was only the responsibility of the prosecution to ensure their presence which undermines the judicial process of dispensing justice and, thus, resulting in miscarriage of justice. Not dilating any further it has become procedure for the Courts below to resort to such a unjust procedure in closing evidence all of a sudden without affording reasonable opportunity as well as cautioning and rarely resort to the essential provisions of the Code of Criminal Procedure.

Learned counsel for the respondents has sought to harbour around the averments that being an interlocutory order no revision lies. However, it needs to be reiterated here that way back in the case of **Rajendra Kumar Sita Ram Pandey vs. Uttam 1999 Vol I RCR 800 SC** the Hon'ble Apex Court considering the law laid down in **Amar Nath and others vs. State of Haryana and others 1978 SCR (1) 222** and **V.C. Shukla vs. State through CBI 1980 SCR (2) 380** and in a recent view reported in **AIR 2010 SC 1140 Sheetla Prasad and others**

vs. Sri Kant and another has held that order which affects substantially the rights of the parties cannot be termed as an interlocutory order. Thus, the impugned order having caused immense prejudice to the case of the petitioner cannot be termed to be a interlocutory order as the trial Court has wrongly shut out the evidence which the prosecution wishes to produce. There is total non-adherence in adopting due process of law.

In view of the foregoing discussions, the impugned order does not sustain scrutiny of law and needs to be set aside, however, to ensure speedy disposal of the matter trial Court shall afford only one opportunity for the prosecution to complete its evidence.

Parties through their counsel are directed to appear before the trial Court on 20th July, 2015.

(FATEH DEEP SINGH)
JUDGE

June 29, 2015
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