

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-539-SB of 2016 (O&M)
Date of Decision: March 21, 2016

Prabir Bhattacharyya

...Appellant

VERSUS

M/s Siemens Power Engg. (P) Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Appellant in person.

INDERJIT SINGH, J.

CRM No.4369 of 2016

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 10 days in re-filing the criminal appeal, is condoned.

CRA No.S-539-SB of 2016

The present appeal has been filed by the appellant against the order dated 19.11.2015 passed by learned District and Sessions Judge, Gurgaon, vide which the application filed by the appellant for taking action against the respondents under Section 193 read with sections 191/192 and/or Section 196 and/or Section 199 and/or Section 200 and/or Sections 2(i) to 2(c)(iii) of the Contempt of Courts Act, 1971 or to refer the matter to this Court under section 15(2) of the Contempt of Courts Act, 1971, for initiating contempt proceedings, was dismissed.

I have heard appellant in person and have gone through the record.

From the record, I find that it is stated in the application filed by the appellant as under:-

“XXX..... while moving application for transfer of Criminal Revision, the accused filed false affidavit, on the basis of which Revision petition No. 39 of 2013 stood transferred from the court of Sh.Phalit Sharma, learned ASJ, Gurgaon to the court of Sh.S.K. Khanduja, learned ASJ, Gurgaon, vide order dated 16.12.2014. The subject matter and/or material facts of the two revision petitions were entirely different; parties and the nature of dispute in the said two revision petitions were also different. However, the false and fabricated pleas of the accused, taken in the transfer application, formed the very basis of the transfer application. The accused were being represented by a famous law house and, thus, were aware of all related legal provisions. Thus, the violation of penal law by the accused were intentional and conscientious. In reply to the 'transfer application' the applicant had raised these issues before this Court and during the hearing on 16.12.2014 also the applicant informed the Court about the same. Plea has been taken that the perjurious pleadings of the accused profoundly influenced the opinion of the Court as is evident from order dated 16.12.2014, wherein it is mentioned that if the revisions are heard separately, conflict of decisions would arise. Though the parties, nature of dispute and facts of the revision petitions are different, yet the accused in their transfer application averred that those were same/similar and in case the revision petitions are heard separately, conflicting judgments would arise. Thus, all the statements/ averments of the accused furnished in their affidavit were false which amounts to committing contempt of Court u/s 2 (c) (i) to 2(c)(iii) of the Contempt of Court Act and the accused tended to lower the authority of Hon'ble Court. Hence, the application.”

The reply of the respondents was taken and learned District and Sessions Judge, Gurgaon, after hearing the learned counsel for the parties, dismissed the application vide impugned order dated 19.11.2015.

The perusal of the record, especially the order dated 19.11.2015 passed by learned District and Sessions Judge, Guragon, shows that the reasonings have been given as per law. In no way, the impugned order can be held as perverse or illegal. The transfer application was filed before the District and Sessions Judge, Gurgaon, only on the ground that similar revision petitions are pending in the Court of learned Addl. Sessions Judge and the revision petition in question be also transferred to that Court. Learned District and Sessions Judge, Gurgaon, discussed all these facts in detail and has given the reasonings that it is the prerogative of the District and Sessions Judge, who has not only to go through the legal technicalities but also required to consider convenience of the parties as well as to save the precious time of the Courts. If number of litigations between the same parties, may be of different nature, are scattered in different Courts then in case the matters are transferred to one Court then it would not only be convenient to the parties but would also save the precious time of different judicial Courts and one Presiding Officer would understand the entire litigation in a better manner. The Court also held that there is no satisfactory explanation given by the applicant for filing the application after the delay and latches of more than three months.

Furthermore, it is in the order that the present appellant was the employee of M/s Siemens Power Engineering (P) Ltd. and other related matters are also relating to his employment. Learned District and Sessions Judge, Gurgaon also gave the operative part of

the order vide which the case was transferred. The perusal of that operative part of the order shows that merits were not discussed. It is written that without commenting on the merits of the case, in the interest of justice and to avoid conflicting view, revision petition titled 'Prabir Bhattacharya vs. Siemens Power Engineering (P) Ltd. and others', is transferred for disposal in accordance with law, where connected revision petitions are pending.

Otherwise also, even if it is written that the revision petitions of similar nature are pending in another Court, it is not to be construed strictly that nature of all the revision petitions should be the same. It is admitted fact that present petitioner was employee of M/s Siemens Power Engineering (P) Ltd. and the dispute is mainly related regarding his employment. These revision petitions may be for different actions but the main fact remains that same dispute is between employer and employee and all these petitions are to be tried by one Court to avoid conflicting judgments etc. and Presiding Officer of that Court can better understand the dispute. Otherwise also, it would be convenient for the parties to appear in one Court and they can also get one date for their cases etc.

Only on the ground that revision petitions already pending before another Court were not strictly of similar nature, in no way, can be held sufficient for initiating contempt proceedings. The Court is to see in which case it is convenient and the action should be taken and the proceedings under Section 340 Cr.P.C. should be initiated.

The appellant has cited judgment passed by the Hon'ble

Supreme Court in ***K.Karunakaran vs. T.V.Eachara Warriar, decided on 16.11.1977***, judgment passed by Hon'ble Allahabad High Court in ***Punjab Singh and others vs. State of Uttar Pradesh decided on 22.10.1982***, judgment passed by Hon'ble Sikkim High Court in ***Gulshan Rai Nagpal vs. Principal, Government Law decided on 28.08.2000***, judgment passed by Hon'ble Delhi High Court in ***Mr.Rajesh Jain vs. Sh.Devender Kumar Saigal decided on 01.06.2012*** and judgment passed by Hon'ble Bombay High Court in ***The Kapol Co-operative Bank Ltd. vs. State of Maharashtra and others decided on 05.08.2004***. I have gone through all the above-cited judgments and the same having distinguished facts will not apply in the present case.

In view of the above discussion, I find that the impugned order dated 19.11.2015 passed by learned District and Sessions Judge, Gurgaon, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present appeal, the same is dismissed.

March 21, 2016
Vgulati

(INDERJIT SINGH)
JUDGE