

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-7974 of 2016

.....

Date of decision:28.3.2016

Ramesh Kumar

...Petitioner

v.

U.T., Chandigarh and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Ram Pal Vema, Advocate for the petitioner.

.....

Inderjit Singh, J.

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for quashing of the impugned order dated 5.1.2016 (Annexure-P.6) passed by learned Judge, Special Court, Chandigarh in case NCB Crime No.63 of 18.9.2014 registered for the offences under Sections 8, 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') titled as "N.C.B. Vs. Suresh Kumar and others" whereby the application filed under Section 311 Cr.P.C. by the accused-petitioner, namely, Ramesh Kumar has been dismissed wrongly and illegally without considering the facts and evidence on record.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that accused-petitioner Ramesh Kumar filed application under Section 311 Cr.P.C. for recalling PW-4 Sachin Guleria, PW-5 Nirbhey Singh and PW-6 Brahma Nand for further cross-examination on the ground that the applicant was represented by Shri Pushpinder Singh Dahiya, Advocate, who is his brother-in-law (wife's real brother), but the intention of the Advocate and the wife of the applicant was not to get the applicant acquitted in the present case by representing true facts, but their intention was to get the applicant convicted. It is also stated that the applicant has full trust on Shri Pushpinder Singh Dahiya, Advocate, however, the above said Advocate never gave the papers of the case or the evidence recorded during the trial. On the last to last date of hearing when evidence of the wife of the applicant was being recorded, at that time, the applicant came to know that Shri Pushpinder Singh Dahiya, Advocate along with the wife of the applicant are creating evidence for the conviction of the applicant. The applicant requested the Court not to record the evidence of his wife and also moved an application for change of counsel. It is also stated that all the evidence and cross-examination conducted by Shri Pushpinder Singh Dahiya, Advocate was in order to get conviction of the applicant so that he along with his sister can grab his property.

After taking the reply from the NCB and after hearing the learned counsel, the learned Judge, Special Court dismissed the application filed under Section 311 Cr.P.C.

I have gone through the impugned order dated 5.1.2016 passed by the leaned Judge, Special Court, Chandigarh. The reasoning given in the

order are correct as per evidence and law. No illegality has been committed by the Court below while passing the impugned order. I have also seen the statements of the witnesses placed on record. The witnesses have been cross-examined in length as the statement of PW-4 shows that he has been examined for two-three dates and he has been cross-examined by various Advocates for different accused and the cross-examination runs in more than five pages. Even the learned counsel for the present petitioner has cross-examined the witnesses for about more than two pages. Nothing has been pointed out from the statements of the witnesses that which suggestion or cross-examination by the counsel of the present petitioner is against him. Nothing has been pointed out as to which material question has been left by the counsel during cross-examination. By simply saying that his counsel, who is relative and wanted to convict him and creating the evidence of his conviction cannot be believed, in the facts and circumstances of the case. Therefore, the impugned order passed by the learned Judge, Special Court is correct as per law and is upheld.

Finding no merit in this petition, the same is dismissed.

March 28, 2016.

(Inderjit Singh)
Judge

hsp