

In the High Court of Punjab and Haryana at Chandigarh

1. Criminal Misc. No. M-29518 of 2015 (O&M)
Date of Decision: 05.9.2017

Harpal SinghPetitioner

Versus

State of PunjabRespondent

2. Criminal Revision No. 3251 of 2015

Harpal Singh and anotherPetitioners

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vijay Lath, Advocate
for the petitioner(s).

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J. (ORAL)

This order shall dispose of CRM-M-29518-2015 (*Harpal Singh versus State of Punjab*) and CRR-3251-2015 (*Harpal Singh and another versus State of Punjab*) as the same have arisen out of common FIR No. 207 dated 18.8.2012 for offence under Section 420, 406, 120-B IPC, Police Station City Rajpura. However, for sake of brevity, facts have been extracted from CRM-M-29518-2015.

Through the instant petition i.e. CRM-M-29518-2015, the petitioner has impugned the order dated 25.5.2015 passed by the trial Court

whereby the trial Court has proceeded with the trial without giving a finding

on the question of unsound mind of the petitioner.

An application was filed by the petitioner through his wife Parvinder Kaur seeking exemption from personal appearance of accused Harpal Singh on the ground that the petitioner (Harpal Singh) is 100% blind and is having 100% disability certificate. Vide order dated 25.5.2015, the trial Court has come to the conclusion that in order to delay the proceedings, the petitioner is not appearing before the Board constituted by Rajindra Hospital, Patiala.

Learned counsel for the petitioner states that petitioner Harpal Singh had met with an accident in the year 2006 and in the said accident he had received head injury as well as other injuries on the other parts of the body. For the injuries so received, he remained under treatment of P.G.I., Chandigarh. Due to head injury, the psychological condition of the petitioner was badly effected and he has become 80% mentally disabled person. In the accident, the petitioner has also suffered 100% blindness. However, the trial Court has proceeded in the case ignoring the medical condition of the petitioner who is an accused in FIR No. 207 dated 18.8.2012 registered under Section 420, 406, 120-B IPC, Police Station City Rajpura.

Learned counsel has further argued that since the expenses of medical examination at Rajindra Hospital, Patiala were beyond his financial capabilities, the petitioner could not get himself examined in the said hospital. He further states that no written communication has been given by the Rajindra Hospital, Patiala, as regards the likely expenses for medical examination but this fact was ascertained by the petitioner while making enquiry from the authorities of the Rajindra Hospital, Patiala.

On the other hand, learned State counsel, on instructions from Sub Inspector S.K.Singh Bedi states that in order to delay the proceedings, the petitioner has not got himself examined before Rajindra Hospital, Patiala and he is not interested to get himself examined from that hospital.

I have heard learned counsel for the parties.

On October 29, 2015, this Court has passed the following order:-

“Learned counsel for the petitioner has brought to the notice of the Court that as per order passed by the trial court, the petitioner was referred to Department of psychiatry, Rajindera Hospital but the petitioner was asked to deposit a sum of Rs. 50,000/-. The petitioner was not in a position to pay the same being a poor person. Learned counsel further submits that due to aforesaid reason, the petitioner did not appear before the doctor.

Learned State counsel submits that the medical check-up of the petitioner could be got done as per directions issued by the trial Court but the petitioner did not appear inspite of giving ample opportunities.

In view of the aforementioned facts, the petitioner is granted one more opportunity to appear before the Head of the Department of Psychiatry, PGIMER, Chandigarh on 05.11.2015. The Head of the Department is directed to admit the petitioner, if required and give necessary opinion after examining him within a period of one month from the date of receipt of copy of this order.

Adjourned to 22.12.2015.

Meanwhile, the trial Court is directed to adjourn the case beyond the date given by this Court.”

Pursuant to the aforesaid order, the petitioner has appeared before the PGIMER, Chandigarh where he was medically examined. Vide

assessment of the petitioner was received from PGIMER, Chandigarh wherein it has been reported as under:-

“The Head, Department of Psychiatry, PGIMER, Chandigarh has intimated that:-

As per the records of the department, Mr. Harpal Singh is registered in the department of Psychiatry vide Psy. No. 72412. The patient has been attending OPD of the department since the year 2006. He was last examined on 26.11.2015 and 15.1.2016 by Dr. Aditya Somani. Patient has history to two road traffic accidents in past leading to severe decline in his intellectual abilities. Currently, patient is not able to take care of himself and is dependent on his family members even for most basic needs like feeding, bathing and going to toilet. Psychometric assessment done on 26.11.2015 showed profound mental sub-normality (SQ less than 20).”

Since the medical report as conducted by PGIMER, Chandigarh was not before the trial Court at the time of passing of the order dated 25.5.2015 and the said order was passed in the absence of such medical report, this petition is allowed to the extent that the impugned order dated 25.5.2015 is set aside. The case is remanded back to the trial Court to pass a fresh order by considering the medical report of PGIMER, Chandigarh dated 4.2.2016.

The original communication received from PGIMER, Chandigarh dated 4.2.2016 be sent to the trial Court for onward consideration and photocopy of the said report be retained.

So far as CRR-3251-2015 is concerned, since the charges have been framed without looking into the medical condition of the petitioner and in CRM-M-29518-2015 while remanding the case, the trial Court has

been asked to pass a fresh order, the present revision petition is disposed of in the same terms. The impugned order dated 11.6.2015 is set aside. The case is remanded back to the trial Court and the trial Court after assessing the medical condition of the petitioner shall pass a fresh order on charge as well.

(HARI PAL VERMA)
JUDGE

September 05, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No