

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-30941-2017

Date of Decision:28.11.2017

Arvind @ Monu and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. N.S Shekhawat, Advocate,
for the petitioners.

Mr. A.S Chaudhary, Addl. A.G., Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing the order dated 11.08.2017 (Annexure P-1) passed by the learned Additional Sessions Judge, Ambala, whereby defence evidence was closed in FIR No.165 dated 24.07.2014 under Sections 148, 149, 323, 324, 325, 307 IPC, registered at Police Station Naraingarh.

Learned counsel for the petitioners states that the case was fixed before the trial court on 24.07.2017 for recording the statements under Section 313 Cr.P.C. and the matter was adjourned for 27.07.2017 for defence evidence, if any and arguments. However, on 27.07.2017, since no DW was present, adjournment was sought by the petitioners to lead defence evidence and the matter was adjourned to 03.08.2017. When no DW was present on 03.08.2017, the case was adjourned for 11.08.2017 and one more opportunity was granted to the petitioners-accused to lead the entire defence

evidence at their own risk and responsibility. Thereafter, on 11.08.2017, the impugned order was passed closing the defence evidence of the petitioners.

Learned counsel for the petitioners further states that there was no malafide on the part of the petitioners to delay the proceedings, in any manner. As the time granted to the petitioners by the trial Court was too short, they could not arrange for defence witnesses. They had applied for a certified copy of exemption application dated 23.07.2014 moved by the injured Parveen Kumar and Mohit witnesses of the case from the concerned court, however, same was not supplied to the petitioners. It is only on 16.08.2017, the concerned copyist has reported that said application is not available on the file.

Heard learned counsel for the parties.

The provisions enshrined in the Code of Criminal Procedure have been enacted with a definite purpose so as to ensure fair trial and grant of reasonable opportunity with the underlying principle that no-one should be condemned unheard. Section 313 Cr.P.C. has been made with this end in view, by virtue of which a duty is cast upon the Court to get an explanation of any incriminating material that has been proved against the accused at the trial which the accused needs to give explanation for. The provisions mandate that for the purposes of enabling the accused to personally explain any circumstances appearing in the evidence against him at the inquiry or trial, the Court may at any stage without previously warning the accused put such questions to him as the Court may deem necessary and where the evidence of the complainant side has been examined before recording of his defence, the Court is supposed to do so and which is without administering oath to him.

In view of the above, the present petition is allowed and order dated 11.08.2017 (Annexure P-1) passed by the learned Additional Sessions Judge, Ambala is set aside and the petitioners are afforded one effective opportunity to lead their evidence in defence.

It is made clear that the trial court shall grant one effective opportunity to the petitioners to conclude their defence and will ensure that there is no delay in proceedings by the petitioners-accused, in any manner.

November 28, 2017

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(HARI PAL VERMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No