

CRM-M-572 of 2017 :1:

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

CRM-M-572 of 2017
Date of decision: 09.02.2017

Krishan & Ors.

... Petitioners

VS.

Parveen Kumar

... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. Abhinav Sood, Advocate
for the petitioners.

Mr. Ravi Malik, Advocate
for the respondent.

* * *

DEEPAK SIBAL, J.(ORAL)

The present petition has been filed under Section 482 Cr.P.C. to challenge therein order dated 17.12.2016 (Annexure P-4) passed by the Additional Sessions Judge, Palwal and order dated 17.11.2015 (Annexure P-2) passed by the Chief Judicial Magistrate, Palwal in Criminal Complaint No 372 dated 05.03.2013 under Sections 148, 149, 323, 307, 506 IPC and Section 25/54/59 of Arms Act titled as Parveen Kumar Vs. Krishan and others pending in the Court of Chief Judicial Magistrate, Palwal.

At the time of hearing, learned counsel for the petitioner has restricted his challenge only to the afore referred order dated 17.12.2016 (Annexure P-4) passed by the Additional Sessions Judge, Palwal.

Facts in brief which need to be noticed are that the respondent-complainant had filed a criminal complaint before the trial Court alleging therein offences against eight accused under Sections 148, 149, 323, 307,

506 IPC read with Sections 25/54/59 of the Arms Act.

On the basis of preliminary evidence recorded by the trial Court, through order dated 17.11.2015, the petitioners were summoned to face trial. Such order was challenged by the petitioners by way of a revision petition filed before the Additional Sessions Judge, Palwal but the same was dismissed vide the order impugned before this Court only on the ground of delay after holding that the revision petition had been filed beyond the period of limitation.

Learned counsel for the petitioners submits that the revision petition could have been filed by the petitioners against the summoning order dated 17.11.2015 within three months of the passing of the same but due to the fact that after the passing of the summoning order the complainant had been assuring the petitioners that he would withdraw the complaint, the revision was not filed. When the petitioners realized that the respondent was only dilly-dallying the matter, they filed the revision petition, though belatedly. He further submits that the delay was not intentional and that the petitioners would gain nothing by filing the revision after the period of limitation.

Learned counsel for the respondent submits that the present revision petition having been filed after a delay of about eight months has rightly not been entertained by the revisional Court.

After hearing counsel for the parties, I am of the opinion that the present petition must succeed.

A perusal of the record shows that along with the revision petition filed by the petitioners to challenge therein the summoning order, they had also filed an application seeking condonation of delay wherein

they had specifically stated that the delay if any, was bona fide and on account of the fact that after the passing of the summoning order and filing of the revision petition, the respondent-complainant was assuring the petitioners that he would not pursue the complaint and taken in by the false promise on his part, the petitioners did not approach the revisional Court in time. It is not disputed that in response to the the aforesaid application no reply was filed by the respondent and that being so, the averments made in the application seeking condonation of delay in the filing of the revision petition would have to be accepted as correct.

Through the present petition, all that the petitioners are seeking is a direction to have their revision petition, which is statutory remedy, to be decided on merits especially after having explained the delay, as above.

In view of the above, order dated 17.12.2016(Annexure P-4) passed by the Additional Sessions Judge, Palwal, is set aside, with a direction to the revisional Court to decide the revision petition filed by the petitioners afresh, on its merits.

The petition stands allowed in the above terms.

February 09, 2017
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(Deepak Sibal)
Judge

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No