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

CRR-2476-2015 (O&M)

Date of decision:19.07.2017

GURBAX SINGH

... Petitioner

versus

AMIT & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sandeep Goyal, Advocate, for the petitioner.

Mr. Rahul Dev, Advocate, for the respondents.

HARI PAL VERMA, J.

CRM-21537-2015

Prayer in this application filed under Section 5 of Limitation Act, 1963 is for condonation of delay of 24 days in filing the present revision petition.

For the reasons stated in the application, same is allowed and delay of 24 days in filing the revision petition is condoned.

CRR-2476-2015

The petitioner-Gurbax Singh-complainant has filed the present revision petition against the order dated 09.03.2015 passed by learned Additional Chief Judicial Magistrate, Kaithal, whereby the pre-charge evidence of the complainant was closed as he failed to adduce any evidence.

Learned counsel for the petitioner has contended that on a

407, 191, 192, 159, 148, 149, 504, 506, 341, 218, 219, 136 and 120-B IPC and Section 25 of Arms Act, 1959, learned Magistrate had dismissed the complaint vide order dated 21.08.2012.

Aggrieved against the aforesaid order dated 21.08.2012, the petitioner preferred a revision petition before the learned Additional Sessions Judge, Kaithal and vide order dated 04.09.2014, the said revision petition was allowed to the extent of summoning of the accused-Amit.

Still dissatisfied with the aforesaid order dated 04.09.2014, the petitioner preferred a petition before this Court i.e. CRM-M-41527-2014 titled as 'Gurbax Singh Versus Amit and others', under Section 482 Cr.P.C., for setting aside the order dated 04.09.2014 passed by learned Additional Sessions Judge, Kaithal and the order dated 21.08.2012 passed by learned Judicial Magistrate Ist Class, Kaithal.

Since the said petition was pending before this Court, the petitioner-complainant requested the trial Court that he would like to lead his evidence against all the accused in support of his complaint, but still vide order dated 09.03.2015, the learned court closed the pre-charge evidence considering the fact that there was no stay in CRM-M-41527-2014 and it was incumbent upon the petitioner to lead his pre-charge evidence.

I have heard learned counsel for the parties.

Merely because the petition i.e. CRM-M-41527-2014 against the respondents is pending before this Court, vests no right for

the petitioner to prolong the proceeding indefinitely and mere filing of said petition, more particularly, when proceedings have not been stayed by this court, the petitioner cannot be allowed to take advantage of mere pendency of the case. Even otherwise in CRM-M-41527-2014, this Court has found that the complainant, who claimed himself to be injured, failed to get himself examined as a witness. Instead of the complainant appearing as a witness, his wife has appeared to depose in favour of the complainant. No reason has been given as under what circumstances, the petitioner failed to get himself examined despite the fact that he claimed himself to be injured. The doctor, who conducted medical examination of the petitioner, found that the petitioner was found in drunken condition as smell of liquor was found present from his mouth. Therefore, it creates a doubt on the very veracity of the complaint itself.

Once it was found that the proceedings before the trial Court were not stayed in the petition i.e. CRM-M-41527-2014, the petitioner was bound to lead pre-charge evidence.

In view of above this Court does not find any illegality in the order dated 09.03.2015 passed by learned Additional Chief Judicial Magistrate, Kaithal and accordingly, the present revision petition stands dismissed.

(HARI PAL VERMA)
JUDGE

19.07.2017

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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No