

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

**CRM No.M-8419 of 2017 (O&M)
Date of Decision: 20.03.2017**

Pradeep Kumar Mandal

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Manu K. Bhandari, Advocate with
Mr. Rohit Seth, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.

Petitioner was implicated in FIR No.52 dated 14.05.2013 under Section 13(i)(E) of the Prevention of Corruption Act while he was working as Assistant Manager in CSD Depot at Bathinda. Challan was presented by the Investigating Agency and charges were framed against the petitioner by the trial Court on 18.03.2014.

As per pleadings on record, apparently, the trial progressed and reached a stage where even statement of the accused/present petitioner was recorded under Section 313 Cr.P.C.

It is at such stage that the impugned order dated 06.02.2017 has been passed by the learned Additional Sessions Judge, Bathinda at Annexure P-1.

Perusal of the impugned order reveals that at the stage of framing of charge i.e. on 18.03.2014, there was no order placed on record as regards grant of sanction to prosecute. The sanction to prosecute order has been issued on 14.12.2016 and accordingly, a view had been taken by the trial Court that the entire proceedings conducted i.e. framing of charges,

conduct of trial, recording of statement of the accused, summoning of defence witnesses etc. were irregular proceedings. The impugned order directs the *de novo* trial.

Learned counsel appearing for the petitioner argues that the impugned order would work to the prejudice of the accused inasmuch as after recording of statements of prosecution witnesses, the petitioner has already disclosed his defence. He further contends that after passing of the impugned order, three prosecution witnesses have been examined and who have now suffered statements which are at a variance to their initial statements recorded and which amount to filling up of lacuna by the prosecution.

At this stage, learned counsel appearing for the petitioner was confronted with a query by the Court as regards the prejudice, if any, if the petitioner was to be granted an opportunity to confront the witnesses as regards the statements now recorded and the variance in their deposition recorded earlier in point of time. Counsel concedes that if any such opportunity of confronting the witnesses were to be granted then there would be no occasion for the petitioner/accused to plead any prejudice during the course of trial.

Counsel at this stage, prays for withdrawal of the present petition with liberty to file an appropriate application before the trial Court to seek clarification in such regard. The request made by counsel is found to be just and reasonable.

Accordingly, the present petition filed under Section 482 Cr.P.C. is dismissed as withdrawn with liberty as prayed for.

Needless to observe that in the eventuality of any such application being preferred by the petitioner as per prayer sought, trial Court would be obligated to take a view on the same in accordance with law.

A copy of this order be furnished to learned counsel for the petitioner under the signatures of the Bench Secretary.

20.03.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |