

266-A

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

CRM-M-9770 of 2017 (O&M)
Date of decision: May 03, 2017

Surinder Nagpal

.....Petitioner

Versus

U.T., Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Rajiv Kataria, Advocate for the petitioner.

Mr. Sukant Gupta, Addl. P.P. U.T., Chandigarh.

Mr. K.S. Sandhu, Senior Advocate with

Mr. H.S. Jugai, Advocate for respondents No.2 and 3.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith with the consent of learned counsel for the rival parties.

In the pending trial which is pending since 2006 before the Magistrate's Court in which the challan was filed in 2007, the prosecution examined witnesses.

According to the learned counsel for the petitioner, two star witnesses, namely, Sanjeev Nagpal and Gauri daughter of Surinder Nagpal had appeared for recording their examination-in-chief and was completed. Not only that their cross-examination in part was also recorded. Thereafter, these two witnesses for number of reasons did not appear before the trial Court for further cross-examination and for completion of it, though, the trial Court found that the request for not appearing in the Court for cross-examination were not correct.

Learned counsel for the petitioner submitted that the examination-in-chief and some cross-examination of these two witnesses having been recorded, the trial Court ought not to have closed the evidence of prosecution.

Per contra, learned Senior counsel for respondents No.2 and 3 vehemently opposed the request made by the petitioner for completion of their evidence by way of cross-examination as this would amount to 3rd attempt in allowing them the luxury of examining the aforesaid witnesses for cross-examination. Learned Senior counsel submitted that respondents No.2 and 3 have been facing the litigation and the trial since 2006 and therefore, at some point of time, the same must come to an end. He, therefore, vehemently opposed the prayer made in the petition and submitted that the order made by the trial Court refusing to give further opportunity is legal, correct and proper.

Learned counsel for respondent No.1-U.T., Chandigarh supported the impugned order made by the trial Court and also prayed for dismissal of the petition.

I have heard learned counsel for the rival parties at length. Two star witnesses Sanjeev Nagpal and Gauri were admittedly examined in chief before the trial Court in 2015 and 2016. It appears that Gauri was partly cross-examined. In such a situation, the opposition made by the learned Senior counsel for respondents no.2 and 3 for allowing them one more opportunity can be understood, but then fact remains that for completion of a fair trial, the evidence of the witnesses should be completely recorded as denial thereof may tantamount to denial of opportunity in a pending trial. As the trial has not come to an end and such

as the defence witnesses in numbering only 2 will be examined. If the request made by the petitioner for giving an opportunity is not acceded to, there is every likelihood of the reversal of such order ultimately in the higher Court and then that will again delay the culmination of litigation between the parties. In that view of the matter, this Court is of the view that the litigation must come to an end at some point of time and none of the parties could be given a chance to call the trial as a trial which is not fair. In that view of the matter, I am satisfied that one more chance should be given to the petitioner to put the witnesses Sanjeev Nagpal and Gauri in the witness-box and thereafter, looking to the time elapsed, the trial should be held on weekly basis.

Learned Senior counsel for respondents No.2 and 3 submitted that next date fixed before the trial Court is 06.05.2017.

Learned counsel for the petitioner will have to take care and see that on 06.05.2017, both the witnesses Sanjeev Nagpal and Gauri appear before the trial Court for recording of their further evidence. If the evidence is not recorded completely on that date, the trial Court may post the trial on the next working day and thus, complete the evidence. The trial Court shall thereafter, proceed and complete the trial in any case on or before 31.05.2017.

Petition stands disposed of, accordingly.

(A.B. CHAUDHARI)
JUDGE

May 03, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No