

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1072 of 2017

Date of Decision: 26.7.2017

Amit Jain

..Petitioner

versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. N.S.Diwana, Advocate, for the petitioner.

Mr. B.S.Baath, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

This order shall dispose of two Criminal Revision Petition bearing nos.1072 and 1263 of 2017 both titled as “Amit Jain versus State of Punjab”.

Briefly stated, FIR No.53 dated 28.7.2010 under sections 406/420/465/467/468/471 and 120-B IPC was registered against the petitioner and 09 others at Police Station Mataur, District SAS Nagar, Mohali by Senior Vice President of Kotak Mohindra Bank on the allegations that the petitioner along with his co-accused, being a regular employee of Kotak Mohindra Bank, has embezzled Rs.07 crores from the account holders/customers of the bank.

During trial, cross-examinations of PW2 Harjot Singh Gill and PW4 Atul Madaan, could not be concluded by learned counsel for the petitioner for various reasons, though both these witnesses kept on coming present in the court for almost 18 times, but on 31.1.2017, their cross-examinations on behalf of the petitioner were treated as nil despite the fact

that the petitioner moved an application to grant him one more opportunity to cross-examine the above witnesses after 4.2.2017 as his counsel was busy in the election of his father contesting the up-coming elections from Bassi-Pathana Assembly Constituency.

Learned counsel for the petitioner contends that the petitioner may be granted one effective opportunity to cross-examine the aforesaid witnesses, namely, PW2 Harjot Singh Gill, PW3 Saurabh Ghosh and PW4 Atul Madaan, which is very essential for the effective adjudication of the case.

On the other hand, learned counsel for the State has vehemently opposed the argument advanced by the learned counsel for the petitioner.

A perusal of various interlocutory orders re-produced by the petitioner, in the instant petition, reveals that on 15.7.2015 the examination-in-chief of PW2 Harjot Singh Gill was conducted. On 16.7.2015 he was partly cross-examined and his remaining cross-examination was deferred to 21.8.2015. On 21.8.2015 PW2 Harjot Singh Gill and PW3 Saurabh Ghosh again could not be examined for want of record. Further, on 9.9.2015 the said witnesses could not be examined on account of the absence of accused Rampreet and Luv Pal Bambha. Upon an application, production warrants were issued for 21.9.2015 on which date, both the aforesaid accused were produced and the case was adjourned to 08.10.2015. However, on the said date also, since court time was over, therefore PW2 Harjot Singh Gill and PW3 Saurabh Ghosh could not be examined and the case was adjourned to 12.10.2015. Again on 30.10.2015, as the court time was over, the case was adjourned to 16.11.2015. On 16.11.2015 both the abovesaid witnesses could not be examined as accused Rampreet Singh was not produced by the jail

authorities and the case was adjourned to 27.11.2015. On three subsequent dates, i.e. 27.11.2015, 15.12.2015 and 18.1.2016 both these witnesses, namely, PW2 Harjot Singh Gill and PW3 Saurabh Ghosh were present in the court but their cross-examinations could not be recorded as the court time was over. Thereafter, on four dates, i.e., 13.06.2016, 15.10.2016, 22.12.2016 and 04.1.2017, PW2 Harjot Singh Gill and PW4 Atul Madaan were not present and the case was adjourned to 31.1.2017 on which date, despite moving an application for adjournment, the cross-examination of the above witnesses were treated as nil. A perusal of the interlocutory orders, in the other connected case (CRR 1263 of 2017) shows that examination-in-chief of PW-3 Saurabh Ghosh was partly conducted on 24.2.2016 and his cross-examination was deferred to 25.5.2016. Thereafter, he remained present on different dates fixed by the trial court, but on account of the fact that the court time was over, his cross-examination could not be concluded.

From the position explained above, it is evident on record that the petitioner was not at all at fault. Rather the case was adjourned 18 times on account of the fact that either court time was over or for other reasons.

In view of the totality of the facts and circumstances of the case and also the fact that no body should be condemned unheard, both the petition bearing Nos. 1072 and 1263 of 2017 are allowed and the impugned orders dated 31.1.2017 passed by the trial court are set side. It is directed that the trial court shall grant an effective opportunity to the petitioner to cross-examine PW2 Harjot Singh Gill, PW-3 Saurabh Ghosh and PW4 Atul Madaan by re-calling them.

The petitioner shall appear before the trial court on 05.08.2017,

i.e., the date already fixed.

26.7.2017
VK

(RAMENDRA JAIN)
JUDGE

- | | | |
|----|---------------------------|--------|
| 1. | Whether reasoned/speaking | Yes/No |
| 2. | Whether Reportable | Yes/No |