

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

Criminal Revision No. 4086 of 2017 (O&M)

Date of decision : November 08, 2017

Capt. Gurpreet Singh Pannu

....Petitioner

Versus

Mrs. Ritu Pannu and another

....Respondents

Criminal Revision No. 4087 of 2017 (O&M)

Capt. Gurpreet Singh Pannu

.....Petitioner

Versus

State of U.T. Chandigarh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

LISA GILL, J.

This order shall dispose of two revision petitions i.e. Criminal Revision Nos. 4086 and 4087 of 2017.

The petitioner is aggrieved of judgment dated 10.10.2017 passed by learned Additional Sessions Judge, Chandigarh whereby judgment of acquittal dated 28.05.2015 passed by learned Judicial Magistrate First Class, Chandigarh has been set aside alongwith the order closing prosecution evidence. The matter has been remanded back to the learned trial Court with a direction to grant adequate opportunities to the prosecution to conclude its evidence. Parties were, accordingly, directed to appear before the learned trial Court on 23.10.2017. It is submitted that the

petitioner has since appeared before the learned trial Court.

Brief facts necessary for the adjudication of the matter are that FIR 51 dated 30.01.2008 under Sections 498A, 341 IPC was registered at the instance of respondent No. 1 i.e. wife of the petitioner. The matter remained pending before the learned trial Court. Prosecution evidence was closed by order on 28.05.2015. The learned trial Court on 28.05.2015 itself acquitted the petitioner from the charge against him while observing that the complainant herself did not seem to be interested in pursuing the matter as she had not stepped into the witness box despite various opportunities afforded to her. Appeals were preferred by the Union Territory of Chandigarh as well as the respondent – wife. Both these appeals were decided by common judgment dated 10.10.2017. The learned lower Appellate Court observed that the complainant alone cannot be held responsible for the protracted trial. Number of adjournments were occasioned due to the absence of the accused himself or on account of non submission of supplementary challan. In this view of the matter, judgment dated 28.05.2015 of the learned trial Court was set aside and the matter was remanded for fresh decision after recording of prosecution evidence.

Aggrieved therefrom, the present revision petitions have been preferred by the petitioner (accused).

Learned counsel for the petitioner vehemently argues that as many as fifteen (15) effective opportunities were afforded to the complainant to lead evidence, however, she did not come forward. It is, thus, obvious that her only aim is to harass the petitioner by protracting the trial in this devious manner. In this situation, learned lower Appellate Court has wrongly set aside the judgment dated 28.05.2015. An order of acquittal

should not be lightly interfered with but in the present case it has been set aside in a routine manner without advertence to the facts and circumstances of the case. There is no ground whatsoever for setting aside the judgment of acquittal. Therefore, these petitions be allowed and impugned judgment dated 10.10.2017 passed by learned Additional Sessions Judge, Chandigarh be set aside.

I have heard learned counsel for the petitioner and have gone the file with his able assistance.

It is to be noted that charge, in this case, was framed against the petitioner on 08.04.2009 and the matter was adjourned to 06.06.2009. While narrating the details in para 4 of the impugned judgment, it is noted by learned Additional Sessions Judge, Chandigarh that after 15.12.2012, the matter was listed for submission of supplementary challan by the prosecution, which was filed subsequently and copies thereof supplied to the accused vide order dated 07.02.2013. The case reverted to the stage of framing of charge, which was ultimately re-framed on 29.10.2013. It is not in dispute that personal presence of the accused was exempted on several dates. He had been allowed to go abroad specifically in connection with his employment as he is a Pilot by profession. When the statement of ASI Paramjit Kaur was recorded on 14.08.2014, an application under Section 319 Cr.P.C. for summoning additional accused was filed. The matter was adjourned for arguments on the said application on various occasions as at times the accused had sought exemption from personal appearance and on two occasions the Presiding Officer was on leave. The application under Section 319 Cr.P.C. was ultimately dismissed on 21.05.2015. The matter, on 21.05.2015 was adjourned by the learned trial Court to 28.05.2015 for

recording of prosecution evidence. Prosecution evidence was closed by the

learned trial Court on 28.05.2015 itself and on that very day, the petitioner was acquitted of the charge framed against him.

Learned Additional Sessions Judge in para 4 of the impugned judgment has given a succinct detail of the proceedings in the matter.

It is not in dispute that the petitioner was afforded exemption from appearance on various occasions though it is sought to be explained that the petitioner had specifically stated that he has no objection to evidence being recorded even in his absence. Therefore, said exemption should not work to his detriment in any manner and he is not responsible for the delay in proceedings. In this situation, it cannot be said that the complainant alone was responsible for the delay in proceedings. It is further borne out from the record that when the prosecution evidence was closed by the learned trial Court on 28.05.2015 and the petitioner acquitted on the same day, an application for an adjournment stood filed by the complainant on the ground that she was medically unfit to appear before the Court as she was undergoing treatment. Her application was duly supported with medical certificates. Therefore, to have closed the prosecution evidence on the said date and acquitting the accused on that very day, was not justified.

In the factual matrix of the case, it cannot be said that there is any infirmity or perversity in the impugned order dated 10.10.2017 whereby the matter has been remanded to the learned trial Court for deciding the matter afresh after affording liberty to the prosecution to lead evidence.

In the facts and circumstances of the case, learned counsel for the petitioner is unable to point out any perversity, illegality or error apparent on record, which calls for interference by this Court in exercise of its revisional jurisdiction.

Both the revision petitions are, accordingly, dismissed.

However, keeping in view the facts and circumstances of the case and the fact that the matter has been hanging fire since 2008-09, it is considered appropriate that the trial, in this case, be concluded within a period of four months from the date of receipt of certified copy of this order.

November 08, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No