

In the High Court of Punjab & Haryana at Chandigarh.

**CRM-9579-2018 &
CRM-9580-2018 IN/AND
CRM-M-45650-2017
Date of decision:17.04.2018
.....PETITIONER**

DALIP WADHAWAN

VS.

M/S HANSA TUBES PRIVATE LIMITED AND OTHERS
..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Amandeep Kaur, Advocate for
Mr. Saurabh Arora, Advocate, for the petitioner.

Mr. Madan Gupta, Advocate, for respondent No.1.

ARVIND SINGH SANGWAN,J.(ORAL)

CRM-9579-2018

For the reasons stated in the application, the same is allowed and hearing of the main petition is preponed and the same is taken on Board for consideration.

CRM-M-45650-2017

Prayer in this petition is for setting aside the order dated 23.10.2017 (Annexure P3) passed by the trial Court, vide which the application filed by the petitioner-accused for summoning the defence witnesses and allowing him to deposit the diet money was declined.

It is submitted on behalf of the petitioner that in the application (Annexure P2), as many as 8 witnesses were cited, however, the trial Court has dismissed the application only after referring to the status of witness No.VIII-Mandeep Singh Gill and the only reason given in the impugned order was that since witness No.VIII has been declared as a proclaimed offender, he cannot be examined as a witness. Counsel appearing for the petitioner further submits that no order has been passed by the trial Court

with regard to witness No. 1 to 7.

Learned counsel appearing for respondent No.1 submits that he has no objection if the impugned order is set aside and witness No.1 to 7 are allowed to be examined by the petitioner as defence witnesses subject to furnishing the diet money and process fee. Learned counsel for respondent No.1 further submits that witness No.VIII-Mandeep Singh Gill himself is an accused in the complaint and since he has already been declared as proclaimed offender by the trial Court, he cannot be examined as a witness as it is not possible to serve the summons/warrants upon this witness.

After hearing learned counsel for the parties, this petition is allowed and the impugned order dated 23.10.2017 is partly set aside. It is directed that the trial Court will grant two effective opportunities to the petitioner-accused to examine witness No. 1 to 7 as per the application for summoning the defence witnesses (Annexure P2) on furnishing correct address, diet money and process fee. Further considering the fact that witness No.VIII Mandeep Singh Gill is a co-accused and has already been declared a proclaimed offender by the trial Court, prayer to summon witness No.VIII is declined.

Parties are directed to appear before the trial Court on 17.05.2018 and the trial Court will fix a date for recording the evidence.

CRM-9580-2018

Since the main case has been decided today itself, this application has been rendered infructuous and disposed of as such.

17.04.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No