

**In the High Court for the States of Punjab and Haryana  
At Chandigarh**

CRM-M-3847-2019 (O&M)  
Date of Decision:- 11.3.2019

Tejpal and others

... Petitioners

Versus

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Deepender Singh, Advocate for the petitioners.

\*\*\*\*\*

**GURVINDER SINGH GILL, J.**

1. Petitioners Tejpal and others, who are arrayed as accused in FIR No.179 dated 21.3.2015 registered at Police Station Manesar, Gurgaon under Sections 307, 323 and 34 of Indian Penal Code and Section 27(1) of Arms Act, have filed this petition seeking setting aside of order dated 3.12.2018 (Annexure P-6) passed by Court of Additional Sessions Judge, Gurugram, whereby an application filed by them for stay of proceedings of the said trial on the ground that the matter pertaining to a cross-version instituted on the basis of a complaint filed by them is pending wherein the accused have been summoned to face trial.
2. I have heard the learned counsel for the petitioners.
3. The FIR in question was lodged against the petitioners way back in the year 2015, in which charges were framed against the accused on 13.5.2015 for

offences under Sections 307, 323, 201/34 of Indian Penal Code, 1860 and under Section 27(1) of Arms Act.

4. Subsequently, petitioner No.1 Tejpal filed a complaint dated 13.1.2016 (Annexure P-2) against the complainant (complainant in the FIR) namely Sajjan and three others in respect of offences under Sections 452, 323, 307 and 34 of Indian Penal Code, 1860, wherein the aforesaid Sajjan and others were ordered to be summoned by learned Judicial Magistrate 1<sup>st</sup> Class vide order dated 2.12.2016. Said Sajjan and others challenged the summoning order by way of filing a revision petition, which was dismissed by learned Additional Sessions Judge vide order dated 19.3.2018. The said order dated 19.3.2018 was challenged by the aforesaid Sajjan and others by way of filing a petition in this Court i.e. CRM-M-14077-2018, wherein the following orders were passed on 5.4.2018:-

“Notice of motion for 16.7.2018.

In the meanwhile, the trial Court is directed to adjourn the case beyond the date fixed by this Court”

5. The aforesaid matter is still pending in this Court. The petitioners filed an application dated 3.12.2018 (Annexure P-6) before the trial Court praying for stay of proceedings till the decision of the petition filed by the opposite party i.e. CRM-M-14077-2018 Sajjan and others Versus State of Haryana on the ground that the trial against the petitioners being a cross-version was required to be decided alongwith its cross-version i.e. the complaint instituted by the petitioner titled as ‘Tejpal and others Versus State of Haryana and another’.

6. The learned trial Court, however, dismissed the said application vide order dated 3.12.2018, which has been challenged by way of filing the instant petition.
7. The learned counsel for the petitioners has vehemently argued that since it is a case of cross-versions, therefore, as per the settled principle of law, both the trials in respect of cross-versions, are to be tried together for the sake of convenience and also to avoid any conflicting findings and that since the opposite party i.e. Sajjan and others have already been summoned in a complaint instituted at the instance of petitioner No.1 Tejpal, therefore, the proceedings against the petitioners arising out of the FIR, need to be stayed, so that the cross-version arising out of the complaint filed by the petitioner Tejpal also proceeds further and is decided alongwith the trial pending against the petitioners. The learned counsel, in order to hammer forth, his aforesaid submission places reliance upon a judgment of Hon'ble the Supreme Court reported as Nathi Lal Versus State of U.P. 1990 (Supp.) SCC 145, wherein it was held as follows:-

“We think that the fair procedure to adopt in a matter like the present where there are cross cases is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in

any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

8. I have considered the aforesaid submissions.
9. It needs to be noticed that the trial pending against the petitioners is virtually at its final stage, wherein the entire prosecution evidence has been recorded. The statements of accused have also been recorded under Section 313 Cr.P.C. thereafter, and the matter is at the stage of recording of defence evidence. Vide order dated 19.3.2018, the learned trial Court had adjourned the matter to 28.3.2018 for recording statements of remaining defence witnesses, if any, as well as for arguments. However, even thereafter no evidence was led by the accused/petitioners and the matter had been adjourned again. On 18.4.2018, the petitioners/accused made a request for long adjournment on the ground that a petition filed by the opposite party challenging their summoning is pending in the High Court and consequently the matter was adjourned to 31.5.2018 for recording defence evidence as well as for arguments. The matter has thus been adjourned time and again upon requests made on behalf of the petitioners/accused, although the trial is virtually at its fag end.
10. On the other hand, the cross-version, instituted on the basis of a complaint filed by petitioner Tejpal, is at its very initial stage, where summoning order was passed, which has been challenged in this Court by way of filing CRM-M-14077-2018, wherein interim directions had been issued by this Court that the trial Court to adjourn the proceedings beyond the date fixed in this Court in the said case i.e. in CRM-M-14077-2018. The said petition i.e. CRM-M-14077-2018 now stands adjourned to 2.5.2019 and directions for

continuance of interim order have been issued. No directions were ever issued for stay of proceedings arising out of FIR.

11. Although it goes without saying that cases arising out of the cross-versions should be tried together as has been held by Hon'ble the Supreme Court in Nathi Lal's case (supra) but the present case is distinct inasmuch as the trial in respect of the cross-version has not commenced yet as no charges have been framed so far and the matter is pending in the High Court, wherein summoning order itself has been challenged. In these circumstances, when the case arising out of FIR is at its fag end, while in the cross-version, on the basis of private complaint, the summoning order itself is under challenge and the trial has not commenced in the cross-version at all, staying the proceedings in the FIR case would not advance the cause of justice in any manner. As such, this Court does not find any infirmity in the impugned order dated 3.12.2018 (Annexure P-6) passed by Court of Additional Sessions Judge, Gurugram and the same is hereby upheld. There is no merit in this petition and the same is dismissed.

**11.3.2019**

pankaj

**(Gurvinder Singh Gill)**  
**Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No