

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

118

CRM-M-15551-2019 (O & M)
Date of Decision:17.07.2019

Bhim Sain Aggarwal

...Petitioner

Versus

Naresh Kumar Goel and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Akshay Jindal, Advocate
for the petitioner.

MANOJ BAJAJ, J.

This petition has been filed by the complainant to challenge the order dated 18.03.2019 whereby the trial Court has proceeded to close the pre-charge evidence.

The complaint in question was filed on 01.05.2009 against 9 persons, whereupon the summoning order was passed on 31.07.2009. Thereafter the accused appeared on different dates before the Court and upon completion of the appearance of all the accused, the case was fixed for pre-charge evidence on 17.02.2011. The complainant did not produce the pre-charge evidence on the next few dates and thereafter the proceedings were stayed by this Court as the accused had challenged the proceedings through CRM-M-18786-2010 initiated by the complainant. Later on, the said petition before the High Court was withdrawn by the accused persons and the case was fixed for pre-charge evidence on 24.02.2015. Similarly on 07.07.2015, the case was again fixed for pre-charge evidence on 15.07.2015

as the attempt of compromise did not mature between the parties.

Thereafter, the accused filed an application under Section 210 Cr.P.C. and the complainant had filed an application under Section 294 Cr.P.C. followed by other applications under Sections 311 and 319 Cr.P.C. on different dates. It was on 06.12.2016, last opportunity was granted to the complainant to bring his pre-charge evidence. Finally, the trial Court proceeded to close the evidence vide order dated 18.03.2019 on the ground that no CW is present.

A perusal of the zimni orders placed on record by the complainant reveals that as and when the case was fixed for recording the pre-charge evidence, complainant would file one or the other application and avoided pre-charge evidence. Once the case was fixed for recording the pre-charge evidence, there was no occasion for him to file the application under Section 319 Cr.P.C. for summoning additional accused (Shalini) in the complaint case even before the commencement of the trial. No doubt, previously the separate complaint was filed against the said accused-Shalini, however, upon a challenge by the said accused, the complainant had withdrawn the complaint with liberty to file the application under Section 319 Cr.P.C., which was filed without even completing the pre-charge evidence. Also, number of adjournments were sought thereby giving a possible impression that the complainant has deliberately not adduced his pre-charge evidence. On the same lines, applications under Section 311 Cr.P.C. and Section 294 Cr.P.C. were filed.

During the course of hearing, a specific question was put to the petitioner-complainant to apprise the Court about the status of civil suit for possession by way of ejectment against accused No.1 to 3, which was filed after termination of tenancy under Section 106 Transfer of Property Act.

The notice of termination of licence is prior to the institution of the present

complaint on 19.04.2019. It may be noticed that the complaint contains the fact that accused had also brought a suit for injunction on 20.05.2008 against the complainant, his wife and accused No.4 to 6 in respect of the same property.

In the totality of the facts and circumstances of this case, it appears that the petitioner is not desirous to bring the complete facts before this Court. It is apparent that the complainant is interested in delaying the proceedings of the decade old complaint case and, therefore, the trial Court has rightly closed the evidence.

Resultantly, this Court does not find any reason to invoke the inherent powers under Section 482 Cr.P.C.

Dismissed.

17.07.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No