

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

**CRM-M-38309-2017(O&M)
Date of decision:-5.3.2020**

Paramjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.R.S. Sekhon, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr.A.S. Sekhon, Advocate
for the complainant.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that during trial in case titled "State Versus Paramjit Singh" vide order dated 25.10.2016 observing that charge has been framed in that case on 3.6.2015 and thereafter the prosecution had availed of as many as eight effective opportunities to conclude its evidence including the last opportunity granted on 4.8.2016, but had failed to complete its evidence and no

plausible explanation was there for non-examination of remaining PWs, the evidence of the prosecution was closed by order of the even date and for recording statement of accused under Section 313 Cr.P.C., the case was adjourned to 16.11.2016.

However, the Public Prosecutor had filed an application under Section 311 Cr.P.C. for summoning Bhupinder singh, Kanugo for recording his statement contending that inadvertently, the cited witness could not be examined by the prosecution despite the fact that he had appeared in the Court and had undertaken to produce the relevant record. The application was contested on behalf of the accused and the same was dismissed vide order dated 7.2.2017.

Feeling aggrieved, the State had preferred a revision petition before the Court of Sessions at Ferozepur, which was assigned to Additional Sessions Judge, Ferozepur, who vide judgment dated 18.7.2017 allowed the revision petition, set aside the impugned order with the observations that the prosecution shall avail of only one effective date to produce the said witness.

The accused felt aggrieved by such order passed by Additional Sessions Judge, Ferozepur and has knocked at the door of this Court by way of filing the present petition under Section 482 Cr.P.D.C., which is being contested on behalf of the State and the complainant.

I have heard learned counsel for the parties besides going through the record.

No doubt every litigant has got a right of expeditious trial but in some cases the trial gets prolonged and delayed on account of

various reasons. The Courts are required to do substantial justice and not to get bogged down by the technicalities. Rules of procedure are handmaid of justice. They are meant to advance ends of justice. Shutting doors of evidence upon a litigant sometimes leads to very serious consequences and a litigant having very good case on merits may lose the litigation for the reason that he could not bring proper and necessary evidence on record to establish his case. No doubt too much indulgence cannot be shown to the litigants in the form of granting liberal adjournments for producing evidence but then reasonable opportunities are to be granted and sometimes opportunity of leading evidence is required to be given even that may lead to stretching the proceedings to some extent.

In the instant case, a perusal of the order passed by learned Chief Judicial Magistrate, Ferozepur goes to show that this fact was not considered that Bhupinder Singh, Kanugo had appeared in the Court on the previous date and was bound down with a direction to bring record. He had not turned up on the adjourned date, as such the Court should have issued coercive process against him to procure his presence instead of closing the evidence of prosecution by order. According to the prosecution, Bhupinder Singh, Kanugo is a very material witness for just and proper decision of the case. Therefore, learned Additional Sessions Judge, Ferozepur was fully justified in accepting the revision petition and set set aside the order dated 7.2.2017 passed by the Court of Chief Judicial Magistrate, Ferozepur and no fault can be found with the same.

Although learned counsel for the petitioner has referred to judgments *Rohit Uppal Versus State of Punjab and others, 2017(2)*

RCR(Criminal) 310 passed by this Court and *Sethuraman Versus Rajamanickam, 2010(5) RCR(Criminal) 512* by the Apex Court but those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Learned counsel for the complainant has referred to judgment *Tanguturu Achamma Versus Srtate of Andhra Pradesh and others, 2010(2) Andh LD(Criminal) 180*. He also pressed into service *Ram Nandan Sharma Versus The State of Bihar and another, 2000(3) EcrC 1790* in support of his contention that revision against closure of prosecution evidence is maintainable since the said order is not an interlocutory order.

I do not find any illegality and irregularity in the judgment passed by the learned Additional Sessions Judge, Ferozepur. Rather it is based upon proper appraisal and appreciation of facts and correct interpretation of law.

Finding no merit in the petition, the same stands dismissed.

(H.S.MADAAN)
JUDGE

5.3.2020
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No