

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM-4421 of 2021 and
CRM-M-6213 of 2021 (O&M)
Date of decision:16.2.2021

Chander Shekhar

... Petitioner

versus

The Central Bureau of Investigation

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Gautam Dutt, Advocate,
for the petitioner

Mr.Sumeet Goel, Advocate,
for the respondent

...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

CRM-4421 of 2021

By this application, the petitioner in the accompanying petition seeks to place on record copies of the orders passed by the trial court on 8.2.2021 and 10.2.2021, as Annexures P-11 and P-12 respectively, with the accompanying petition.

Notice in the application.

Mr.Sumeet Goel, Advocate, accepts notice and submits that since obviously the orders are a matter of judicial record, he does not oppose the application.

Consequently, the application is allowed and the aforesaid orders are ordered to be taken on record as Annexures P-11 and P-12 respectively with the accompanying petition.

CRM-M-6213 of 2021

On 9.2.2021, the following order had been passed by this court:-

“This petition has been filed seeking quashing of the order dated 08.02.2021 passed by the learned Special Judge (CBI), Haryana, at Panchkula, in the case titled as CBI v.Chander Shekhar in FIR/RC no.13, dated 03.06.2004, Police Station CBI, ACB, Chandigarh, under Sections 7/13(2)/13(1) (D) of the Prevention of Corruption Act, 1988, Challan dated 22.10.2004 (Annexure P-1), whereby the defence of the accused/petition has been closed, with the proceedings in the case fixed for 09.02.2021 (today).

Mr. Dutt, learned counsel for the petitioner, submits that in fact since the order of the learned trial court closing the petitioners’ evidence has been passed only yesterday, i.e. 08.02.2021, he has not been able to obtain a copy thereof, but the closing of his evidence is reflected in the case status as shown on the website of the Sessions Court, Panchkula, i.e. of the Special Judge, CBI (copy Annexure P-9).

That status report shows that one DW by the name of O.P. Sharma was examined by that court and evidence on behalf of the defence was closed by court order, with arguments

partly heard thereafter and hearing in the case adjourned till today.

Mr. Dutt submits that the matter has now been adjourned for tomorrow for further arguments.

He submits that one defence witness by the name of H.S. Panwar, General Manager, BSNL, remains to be examined, with the said witness being a resident of Assam presently, and that he had been summoned earlier prior to the pandemic having set in, though he had not appeared and consequently the petitioner seeks one opportunity only, within a period of one week/10 days to produce him before the trial court to examine him.

Notice of motion is issued, with liberty granted to serve the respondent CBI through its counsel before the learned Special Judge, CBI, Panchkula, with the said notice to be returnable on 16.02.2021.

To be shown in the urgent motion list.

In the meanwhile, the learned Special Judge, CBI, is directed to not conclude the trial till the next date of hearing only and specifically.”

Though a reply of the respondent-CBI has been sent to the Reader of this court vide a WhasApp communication, it has not been filed in the Registry possibly due to shortage of time.

Be that as it may, Mr.Goel, learned counsel for the respondent-

CBI, refers to the order of the trial court dated 18.1.2021, as has been

reproduced in the order passed by that court on 27.1.2021 (copy Annexure P-7 with the petition), to submit that in orders passed twice earlier, it was duly observed by that court that the only remaining witness for the defence was one O.P.Sharma, with no objection shown to be raised by the counsel for the petitioner, to the effect that there was yet another witness by the name of H.S.Panwar who was also to be examined.

He therefore submits that actually even the said witness (H.S.Panwar) had been given up earlier by the petitioners' counsel himself, (though there is no order which he can produce at the moment showing that any statement to that effect was made).

He further points to the fact that the case before the trial court is pending for the past 15 years and therefore the trial court was very much within its right to actually close defence evidence, with him further submitting that time and again, in different orders, the trial court has reiterated that it was the responsibility of the petitioner to produce all witnesses that he wished to examine, on his own.

Having considered the matter, though learned counsel for the respondent would otherwise seem to be correct, however with there being no statement shown to this court that the petitioners' counsel had actually give up H.S.Panwar as a witness and learned counsel for the petitioner having already stated on the last date of hearing that only one opportunity be given to the petitioner to produce the aforesaid witness before the trial court, the petition is allowed to the extent that the impugned order dated 8.2.2021, closing the defence of the petitioner, is held in abeyance, with liberty granted to the petitioner, on his own responsibility, to produce the

said witness by March 1, 2021, upon the trial court issuing summons for that purpose tomorrow itself (i.e. the next date of hearing before that court), with the said witness to be produced definitely on 1.3.2021.

It is made absolutely clear that if the aforesaid witness for the defence, i.e. H.S.Panwar, does not appear on 1.3.2021 to testify before the learned Special Judge, CBI, Panchkula, the impugned order which is being held in abeyance till then, will operate from that date itself and the defence of the petitioner would stand closed in terms thereof.

If, however, the aforesaid witness does appear on that date to testify, naturally then the impugned order will stand set aside with an appropriate order to be passed by the trial court after his testimony is concluded, including obviously his cross-examination by the respondent-CBI.

It is also to be noticed that Mr.Goel, upon query by this court, submits that the other witness referred to in the order dated 27.1.2021, i.e. O.P. Sharma, has already testified with his testimony concluded.

It is also directed that since, tomorrow, summons are to be issued by the trial court for the aforesaid witness to testify before that court on 1.3.2021, arguments in the matter will not be heard by that court tomorrow, but naturally, upon the testimony of the aforesaid witness concluding, immediately thereafter further arguments of the defence will be heard.

It is made clear that it would only be further arguments and *de novo* arguments will not start again.

If the said witness does not appear on 1.3.2021, on that date

itself arguments would continue to be addressed by counsel for the
petitioner, before the trial court.

16.2.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No