

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

Sr. No.122

CRM-M-40579-2021

Date of decision: 29.09.2021

S.S. Agency and others

....Petitioners

Versus

Suresh Kumar Sachdeva

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. M.S. Rana, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

Through the present petition filed under Section 482 Cr.P.C., the petitioners seek quashing of the order dated 09.09.2021 passed by the Judicial Magistrate Ist Class, Sonapat (for short – the Trial Court) ordering closure of the petitioners' defence evidence.

Learned counsel for the petitioners submits that the only two defence witnesses who had been cited by the petitioners were summoned to appear before the Trial Court for the first time on 24.03.2020. On that date and thereafter, till 09.08.2021, due to the outbreak of Covid-19 no effective proceedings took place in the petitioners' trial. On 09.08.2021, when the matter was listed after the regular functioning started in the Trial Court, only after grant of one opportunity the impugned order was passed resulting in denial of adequate opportunity to the petitioners to lead their defence evidence.

The interim orders produced by the petitioners reveal that two defence witnesses cited by the petitioners were summoned to appear before the Trial Court for the first time on 24.03.2020 on which date and

thereafter, till 09.08.2021, due to the pandemic-Covid-19, no effective proceedings took place in the petitioners' trial. When the regular functioning of the Courts commenced, the argument of learned counsel for the petitioners seems plausible that the defence witnesses may not have been aware that the normal functioning of the Courts had started and therefore, on 09.08.2021, they did not appear before the Trial Court. Thereafter, on the grant of only one opportunity, when the cited defence witnesses did not appear, the impugned order was passed.

After considering the above facts and in line with the principles of natural justice as also not to preclude the petitioners from leading their defence evidence in their trial, it is the opinion of this Court that the ends of justice would be served if the petitioners, at their own risk and responsibility, are granted only one opportunity to produce their entire defence evidence and it is so ordered. Accordingly, the Trial Court shall grant the aforesaid opportunity to the petitioner and dispose of the respondent's plaint within three months from the date next fixed before it.

If the respondent is aggrieved by this order, he is at liberty to approach this Court by filing an appropriate application.

September 29, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No