

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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Crl.Revision no.1409 of 2021

Date of decision:10.11.2021

Ram Murti

... Petitioner

versus

Goldy Sharma

... Respondent

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

Present: Mr.Vishal Goel, Advocate,
for the petitioner

...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks quashing of the order dated 25.10.2021, vide which the learned Additional Sessions Judge, Patiala, had ordered that on the next date of hearing, arguments in the instant appeal and connected matter, along with the application filed by the petitioner, shall be heard.

He further seeks issuance of a direction to the learned appellate court to initially hear and decide the application filed by him under Section 354 of the Cr.P.C.

He also seeks a stay on proceedings before the learned appellate court during the pendency of the present petition.

The order challenged before the learned appellate court (after the conviction of the present petitioner for the commission of an offence punishable under the provisions of Section 138 of the Negotiable Instruments Act, 1881), reads as follows:-

“Arguments not addressed. At the request of learned counsel for appellant case stands adjourned to 8.11.2021 for

arguments. Learned counsel for appellant has clarified at bar itself that on the next date of hearing this court shall hear the arguments in the instant appeal and connected matter along with application filed on behalf of appellant.”

First, learned counsel for the petitioner submits that the matter was not heard by that court on 8.11.2021 and hearing stands adjourned to today, i.e. 10.11.2021.

Upon query put to him as to what the application before that court is as he seeks should be decided before the appeal itself before that court, he points to Annexure P-3 which is the application filed under the provisions of Section 386 of the Cr.P.C. seeking that the complaint case be remanded (to the trial court) for deciding it afresh after examining the evidence and documents on record.

Upon further query, he submits that the complaint needs to be remanded for fresh hearing solely on the strength of the cross-examination of the complainant (CW-1 before the trial court).

Having considered the matter, this petition is disposed of with a direction to the learned appellate court to first examine the cross-examination of the complainant and determine as to whether, on the basis of that cross-examination alone, the matter needs to be remanded for *de novo* hearing before the trial court or not.

Naturally, an appropriate order in that regard would be passed by that court.

It is made clear that this court has not made any comment whatsoever on the actual merits of what has been contended.

It is to be noticed that it is 2.45 pm at the time when this order has been passed and therefore, if the appeal has already been decided by the appellate court today, naturally this order will have been rendered infructuous.

10.11.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No