

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1411-2021 (O&M)
Date of decision: 11.11.2021

Gurdev Singh and another

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mayank Goyal, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 02.11.2021 passed by the Additional Sessions Judge, Sirsa, vide which the application filed by the petitioners for summoning of five witnesses, was dismissed.

Learned counsel for the petitioners submits that when the case was fixed for defence evidence, the petitioners moved an application for summoning of the following witnesses: -

- (i) *Prem Singh, R-954, P.S. Industrial Area, Javra, District Ratlam (M.P.).*
- (ii) *Arjun Lal, MHC, P.S. Industrial Area, Javra, District Ratlam (M.P.).*
- (iii) *Purshotam Krishanappa Sose (Stamp Vendor), Priyadarshani Colony, Sambaji Nagar, Jalna, Tehsil and District Jalna*

(Maharashtra).

- (iv) Sakha Ram G. Sharda (Notary Public), Aksheydeep Priyadarshani Colony, Bhokardan Road, Jalna, Tehsil and District Jalna (Maharashtra).*
- (v) Shek Abdul Hafiz Shekh Abdul Aziz Rehmanganj, Jalna, Tehsil and District Jalna (Maharashtra), representative of Sarpanch.*

Learned counsel further submits that inadvertently, though specific reason for examination of aforesaid witnesses could not be mentioned in the application, however, during the arguments, it was stated that witness No.1 is to prove the visit of Sirsa Police to Madhya Pradesh, when they had gone to arrest the petitioner, witnesses No.2 & 3 are required to prove the power of attorney, which is relevant and will go to root of the case and witnesses No.4 & 5 are required to prove ownership of two wheat cleaning machines and the trial Court has dismissed the application without assigning any good reasons. It is also submitted that a perusal of the impugned order shows that the trial Court has taken note of the fact that there are time bound directions given by this Court to conclude the trial expeditiously.

Notice of motion.

On asking of the Court, Mr. Deepak Grewal, DAG, Haryana accepts notice on behalf of the respondent-State and submits that the trial Court has rightly dismissed the application filed by the petitioners.

I have heard learned counsel for the parties.

A perusal of the record shows that the statement under Section 313 Cr.P.C. was recorded on 21.10.2021 and 22.10.2021 and the case was fixed for defence evidence for the first time on 29.10.2021 and thereafter, the petitioners have moved this application on 02.11.2021, which was declined vide impugned

order on the same day.

It is also apparent on record that FIR pertains to the year 2019 and the prosecution has taken sufficient time spread over a period of two years for concluding the evidence, therefore, considering the fact that the petitioners have a right to lead their defence evidence to support the case and to prove their innocence under Section 233 Cr.P.C. The mere fact that some time bound directions are given by this Court and the same cannot be taken as adverse inference to rights of the petitioners-accused to lead the defence evidence.

The petitioners have been able to show that all the aforesaid witnesses are relevant in order to prove the defence set up by them.

In view of the above, I deem it appropriate to set aside the impugned order in order to avoid any further delay in the trial.

Accordingly, the present petition is allowed and the trial Court is directed to grant two effective opportunities to the petitioners to lead the entire defence evidence at their own risk and responsibility within a period of one month from the date of receipt of certified copy of this order.

It is made clear that the petitioners will bring the defence evidence at their own responsibility and will not claim any further adjournment, if the witnesses are not present before the trial Court.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

11.11.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No