

**CRM-M-4649-2022 &
CRM-M-4653-2022 &
CRM-M-4782-2022**

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

239+240+241

(1) CRM-M-4649-2022

Vijay Pal Adhana

..Petitioner

Versus

Swaraj Mazda Limited Company

...Respondents

(2) CRM-M-4653-2022

Vijay Pal Adhana

..Petitioner

Versus

Swaraj Mazda Limited Company

...Respondents

(3) CRM-M-4782-2022

Vijay Pal Adhana

..Petitioner

Versus

Swaraj Mazda Limited Company

...Respondents

(Through Video Conferencing)

Date of Decision :28.02.2022

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Kumar Bamal, Advocate for the petitioner(s).

Mr. Mandeep S. Sachdev, Advocate for respondent.

Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned petitions are being decided as all the petitions involve the same question of law.

The prayer of the petitioner in the present petitions is that though, the appeal filed by the petitioner against his conviction is pending for the last about seven years but, his prayer for deciding the said appeal on merits has been declined on the ground that the applications, which are pending in the case before the concerned Court, are to be decided first.

On the last date of hearing following order was passed by this Court:-

“Present petition has been filed challenging the order dated 17.09.2021 passed by the lower Appellate Court in Criminal Appeal No.147/2014 filed by the petitioner against his conviction in Complaint No.10784 dated 29.09.2007 to the effect that the main appeal filed by the petitioner cannot be decided till the decision in application, which has been filed by the respondent.

Learned counsel for the petitioner submits that once, the main appeal is ripe for arguments, not hearing the arguments on the said appeal so as to decide it finally, preference given by the Court below in deciding the application first and not appeal, is not at all correct. Learned counsel for the petitioner further submits that once the appeal can be decided, the same should be decided especially when the appeal is pending for the last seven years.

Notice of motion to the respondent for 28.02.2022.

Dasti only.

A copy of this order be also sent to the lower Appellate Court in question for seeking the opinion as to whether there is any impediment in deciding the main appeal, which according to the petitioner, is ripe for arguments.”

In the reply, which has been received from the Additional Sessions Judge, Chandigarh, it has been mentioned that the case has been adjourned for addressing arguments on merits and there is no impediment in deciding the main appeal.

Learned counsel appearing on behalf of the respondent-Company submits that once the applications seeking a particular relief have been filed, the same should be decided first rather than the main appeal. Learned counsel for the respondent further submits that an application for cancellation of bail, which has been extended to the petitioner, was also filed during the pendency of the appeal.

As far as the objection being raised by the learned counsel for the respondent-company that application filed by the parties should be decided first, the same is not necessary as the appeal filed by the petitioner/appellant against his conviction is pending for the last seven years and question whether the petitioner/appellant is liable to pay any amount as held by the trial Court, can be decided even by final adjudication of the appeal. In case, the appeal filed by the appellant is dismissed, the order passed by the trial Court will be implemented, which include the payment of money by the petitioner to the respondent-company and in case, petitioner succeeds in the appeal, then petitioner is not liable for payment at all hence, no useful purpose will be achieved by deciding the applications first once the main appeal is ripe for arguments and can be decided on the next date of hearing itself. Rather the decision of the applications first as being prayed by the learned counsel for the respondent and then deciding the main appeal, will further delay the proceedings, which cannot be allowed especially, when appeal is pending consideration before the Lower Appellate Court from the last 07 years and is already ripe for final arguments.

Keeping in view the above, Lower Appellate Court is requested that in case, there is no impediment, the appeals filed by the

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petitioner/appellant, be decided within a period of one month from the date of receipt of copy of this order. It is made clear that no unnecessary adjournment will be granted to the parties merely on the asking but, in case grant of adjournment is necessary, keeping in view the circumstances, the Appellate Court is free to adjudicate the said request but the same will not delay the final disposal of the appeal filed by the appellant-petitioner unnecessarily.

February 28, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No