

123 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-276-2022

Date of Decision: 11.02.2022

Jagsir Singh @ Doctor

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.S. Godara, Advocate,
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI J. (ORAL)

The present revision petition has been filed challenging the order dated 03.02.2022, passed by the learned Special Judge, NDPS Court, Sessions Court, Sirsa, vide which defence evidence of the petitioner was closed on the ground that no defence witness was present.

Learned counsel appearing on behalf of the petitioner submits that no specified reason has been given by the learned Court below while passing the said impugned order, as unless and until any prejudice is shown or any delay is attributed to the defence witness, the order closing the defence cannot be passed. Learned counsel for the petitioner argues that in the present case, a totally cripple and non-speaking order has been passed by the learned Court below, while closing the defence of the petitioner.

Learned counsel for the petitioner further argues that the petitioner is an accused and he has to be given ample opportunity to present

his case in defence, and therefore, the petitioner seeks one opportunity to

produce all his defence witnesses for examination and in case, he fails to produce the defence witnesses on the date to be fixed by this Court, no further opportunity will be asked for by him.

Learned State counsel submits that though nothing has been mentioned in the impugned order, dated 03.02.2022, with regard to the delay, if any, which has been caused by the petitioner in producing his defence witnesses, but ample opportunities were already given to him to present his defence. Learned State counsel does not oppose the prayer made on behalf of the petitioner to grant him one more opportunity to present his entire defence evidence on the same day.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The order dated 03.02.2022, passed by the learned Special Judge, NDPS Court, Sessions Court, Sirsa, does not disclose reasons for closing the defence evidence of the petitioner. The Courts are required to give the reasons as to whether ample opportunities have been given to the defence to produce the witnesses or not and whether non-production of the defence witnesses is only to delay the proceedings. These relevant facts are missing in the said impugned order.

Considering the prayer of the petitioner as raised by his learned counsel that only one last opportunity to present all his defence witnesses in the learned Court below has been requested, the said request is accepted keeping in view the interest of justice as the accused is to be given all permissible chances to show the Court that he is innocent.

Learned counsel for the petitioner submits that the petitioner will produce all his defence witnesses for examination on 07.03.2022.

The learned trial Court is directed that in case the petitioner produces all his defence witnesses on the said date, the same be examined on that date itself. Failure of the petitioner to produce his defence witnesses on the said date will not entitle him with any other opportunity.

The present revision petition is disposed of in the above terms.

11.02.2022
Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned: Yes
2. Whether reportable: No