

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.113

Case No. : CRM-M-7860-2019

Date of Decision : December 13, 2022

Sukarma Devi		Petitioner
vs.		
State of Punjab and others		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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

Ms. Himani Arora, AAG, Punjab.

Mr. Anandeshwar Gautam, Advocate
for respondents no.2 to 4.

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GURBIR SINGH, J. :

This is a petition under Section 482 Cr.P.C. filed by the petitioner for quashing the impugned order dated 05.01.2019, passed by learned Judicial Magistrate Ist Class, Pathankot (Annexure P-6), whereby pre-charge evidence of the petitioner (complainant before the Trial Court) has been closed by order, in **Complaint Case No.58 dated 13.12.2016** titled as **Smt. Sukarma Devi vs. Ashwani Jaggi @ Ballu and others.**

Learned counsel for the petitioner, at the outset, submitted that the petitioner has moved an application for summoning the Civil Suit and for permission to hand-writing expert to take photographs of disputed signatures present on agreement to sell dated 05.02.2014, alleged to be

signed by the petitioner. The said Civil Suit was filed by the private respondents no.2 to 4 for specific performance of the agreement to sell dated 05.02.2014 but the said application was dismissed on 19.11.2018 (Annexure P-5). Specific plea of learned counsel for the petitioner is that the agreement to sell in question does not bear the signatures of the petitioner. Learned counsel further prays that only one more effective opportunity be given to the petitioner and the pre-charge evidence shall be concluded positively.

On the contrary, learned counsel appearing for respondents no.2 to 4 has submitted that already sufficient number of opportunities have been granted to the petitioner to conclude her pre-charge evidence but she failed to produce entire evidence. On 19.11.2018, the Court gave a special last opportunity subject to cost of Rs.200/- to be paid to DLSA, Pathankot but on the next date, no witness was present and another special last opportunity was granted, failing which, it was further ordered that evidence of the petitioner would be deemed to be closed by order. Even then, no witness was produced and the impugned order was passed on 05.01.2019. So, there is no ground to grant one more opportunity to the petitioner to conclude her pre-charge evidence.

I have heard learned counsel for the parties and perused the case file.

A perusal of the record shows that copy of complaint is Annexure P-1. It has been filed by the present petitioner against private respondents no.2 to 4, in which it has been alleged that the private

respondents have forged the agreement to sell and signatures of the petitioner thereon. During inquiry, specimen signatures of the petitioner were taken and sent to Forensic Science Laboratory, Punjab, for examination. As per Report dated 15.02.2016 from the said Laboratory, signatures of the petitioner did not match with the signatures affixed on the forged agreement to sell. On the basis of preliminary evidence led, the private respondents were summoned under Sections 420, 467, 468, 469, 471, 120-B IPC. No doubt, the learned Trial Court gave many opportunities to the petitioner (complainant) to conclude her pre-charge evidence but the petitioner failed to do so. Ultimately, pre-charge evidence of the petitioner was closed by order. The prayer of the petitioner is that one opportunity be given to her for concluding evidence.

Keeping in view the afore-said circumstances, in my considered opinion, no prejudice would be caused to the other party if one more opportunity is granted to the petitioner to conclude her pre-charge evidence. The other party can be compensated with costs.

Accordingly, without expressing any opinion on the merits of the case, the impugned order dated 05.01.2019, passed by learned Judicial Magistrate Ist Class, Pathankot (Annexure P-6), whereby pre-charge evidence of the petitioner has been closed by order, is set aside. It is directed that the learned Trial Court shall grant one more opportunity to the petitioner (complainant before the Trial Court) to conclude her pre-charge evidence, subject to payment of Rs.7,000/- as costs, out of which Rs.5,000/- shall be paid to the private respondents no.2 to 4 and Rs.2,000/- shall be

deposited with DLSA, Pathankot.

It is made clear that if, for any reason, evidence is not recorded on the date fixed, then the Trial Court shall fix the date on next working day and not beyond that and if no witness is produced, evidence of the complainant/petitioner would be deemed as closed.

December 13, 2022
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>