

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

CRM-M-31300-2016
Date of Decision: 02.12.2022

MANOHAR LAL

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

HARSH BUNGER, J. (ORAL)

Prayer in the present petition filed under Section 482 of the Code of Criminal Procedure, is for quashing the order dated 14.07.2016 (Annexure P-8) passed by the learned Additional Sessions Judge, Gurdaspur, in Sessions Case No.43 of 2015 titled as *State vs Manohar Lal and others* in FIR No.28 dated 18.05.2012 registered under Sections 323, 324, 325, 148, 149 of the Indian Penal Code, at Police Station Behrampur, vide which, the application moved by the petitioner/accused under Section 311 of the Code of Criminal Procedure for summoning PW-1 Dr. Navneet Singh Manhas and PW-4 Vijay Kumar and PW-5 Promila Devi for cross-examination was dismissed.

At the outset, learned State counsel submits that the trial has since concluded and the petitioner and his co-accused stand convicted vide judgment dated 13.11.2019 and sentenced vide order dated 16.11.2019 and as such, the proceedings before this Court have been rendered infructuous. Copy of said order dated 16.11.2019 passed by the learned Additional Sessions Judge, Gurdaspur, has been handed over in Court today, which is taken on record, subject to all just exceptions.

In this view of the matter, the present petition is disposed of as having been rendered infructuous.

However, upon perusal of the file, it is noticed that when this petition came up for hearing on 19.09.2019, the co-ordinate Bench of this Court has passed the following order :-

“Present petition has been filed for quashing of order dated 14.07.2016 passed by learned Additional Sessions Judge, Gurdaspur, whereby an application filed under Section 311 Cr.P.C. for cross-examination of three prosecution witnesses, namely, Dr. Navneet Singh Minhas, Vijay Kumar and Promila (PW1, PW4 and PW5, respectively), was dismissed.

A perusal of the zimni order dated 21.07.2016 passed by learned Additional District and Sessions Judge, Gurdaspur, reveals that statements under Section 313 Cr.P.C. were recorded in this case and the matter was adjourned to 03.08.2016 for defence evidence. Till date, neither any defence witness has been examined; nor there is any progress in the trial as the same is being adjourned from time to time for awaiting further orders from High Court.

This Court on 11.01.2017 specifically directed the trial Court to proceed into the matter as per law and again on 19.02.2018, similar directions were repeated. On previous occasion also i.e. on 18.07.2019, it was clarified that there is no stay of the proceedings before the learned trial Court, but again on 31.07.2019, learned Presiding Officer adjourned the trial to 23.09.2019 on the premise that no further order has been received from the High Court.

In view of the above, it is apparently clear that Presiding Officer (s) have not complied with the directions of this Court for the reasons best known to them. Consequently, this Court was inclined to proceed against the officers

concerned for non-compliance of the orders passed from time to time, on judicial side but taking into consideration the sensitivity of the matter, learned Registrar General of this Court is directed to examine the same and submit his report to this Court on or before 21.10.2019.

Be shown in the urgent list.”

Apropos order dated 19.09.2019, learned Registrar General submitted his report dated 19.10.2019, the operative portion thereof reads thus :-

“The specific directions were passed by this Court vide order dated 11.01.2017 and 19.02.2018 in CRM-M-31300 of 2016, the plea taken by the learned trial court is to the extent that both the orders were not produced by the concerned Ahlmad or seems to be substantiated from the fact that statements of sh. Karanjit Singh, Advocate, learned counsel for complainant Shingara singh and Shri U.R. Sharma, Advocate, learned counsel for accused Jaswinder Singh and Ors., recorded in case titled as State versus Promila Devi etc., CNR No.PBGD01-003050-2012, CIS No.SC-317-2014. Reflecting that the parties had not apprised the Court with regard to the specific directions passed by this Hon’ble Court. Further as reported in Annexure A-4 by Sh. Shammi Yadav, Criminal Ahlmad. It is submitted in which he has submitted that both the orders dated 11.01.2017 and 19.02.2018 in CRM-M-31300 of 2016, were placed in the case file titled as ‘State versus Manohar Lal and others.’ However, both the above-said orders were not produced before the Ld. Presiding Officer by the concerned Ahlmad at the time as he was posted as Ahlmad in the court of Sh. Prem Kumar, Ld. Addl. District and Sessions Judge, Gurdaspur on 24.01.2019, for apprising the officer about the orders passed by the Hon’ble High Court, as is evident from the Annexure A-4 i.e. the statement of Sh. Shammi Yadav, Criminal Ahlmad

that these orders were not produced by him to be seen by the learned Presiding Officer.

Both the situations above in absence of any contrary motive on the part of the Presiding Officer i.e. Sh. Prem Kumar, Additional District and Sessions Judge, Gurdaspur leads only to the interference that the learned Presiding Officer was required to be more vigilant and careful. It is worth mentioning that the officer joined the Superior Judicial Services on 26.04.2014, apparently making the act of the Presiding Officer as bona fide mistake.”

In view of the above, what emerges is that the learned Presiding Officer ought to have been more cautious.

Be that as it may, since the trial has already been concluded, no further order is required to be passed.

Disposed of accordingly.

December 02, 2022

gurpreet

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No