

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25149-2022 (O&M)

Date of decision: 02.06.2022

Som Nath Aneja

....Petitioner

Versus

Union of India and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pranav Chamoli, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 27.05.2022 passed by the Special Judge, CBI Court, Chandigarh, vide which case has been adjourned to 04.06.2022 for pronouncement of final order.

This is totally dishonest petition filed by the petitioner. For reference, impugned order reads as under: -

“An application for exempting the presence of accused Som Nath Aneja filed today on the basis of medical certificate attached. Perusal of the medical certificate shows that it does

not disclose any serious medical condition of the accused on the basis of which he cannot appear before this Court. The application although seems to have been filed only to avoid presence in the Court, but in the interest of justice, the same is allowed for today only.

Remaining arguments on behalf of accused Som Nath Aneja, heard.

Case stands adjourned to 04.06.2022 for orders. The counsel for the accused Som Nath Aneja is directed to produce the accused on the adjourned date without fail as order is to be pronounced in the case and today even the co-accused had appeared despite plaster on his foot.”

On the face of it, the impugned order shows that petitioner Som Nath Aneja intentionally did not appear before the trial Court and the trial Court directed counsel for the petitioner to produce the petitioner on the adjourned date i.e. 04.06.2022, failing which final verdict will be pronounced.

It would be relevant to mention here that the petitioner, in order to delay disposal of the trial, has moved number of applications and thereafter, he filed number of petitions before this Court, leaving no scope to seek adjournment in the case. At the first instance, the petitioner filed CRM-M-11865-2020, praying for setting aside the orders dated 20.02.2020 passed by the trial Court. On 03.03.2022, application moved for preponing

of the said case was dismissed with the following observations: -

“Prayer in this application is for preponing the date of the main case which is fixed for 04.07.2022.

Learned senior counsel, appearing for respondent-CBI, has placed on record a photocopy of the order dated 28.02.2022 passed by the trial Court, which reflects that the applicant-petitioner, despite making a number of dates, is not arguing before the trial Court, though there is a specific order of the trial Court that no further opportunity would be granted to any of the accused to advance their arguments after 14.03.2022.

In view of the same, no ground for early hearing is made out.

Dismissed.”

Since learned senior counsel for CBI placed on record copy of the earlier order dated 28.02.2022 passed by the trial Court, reflecting that the petitioner is taking dates on one pretext or the other, despite the fact that this Court, on an earlier occasion, disposed of CRM-M-15845-2022, filed by the petitioner for setting aside the orders dated 03.02.2022, 06.04.2022, 08.04.2022 and 11.04.2022. The order dated 19.04.2022 passed in CRM-M-15845-2022 reads as under: -

“Prayer in this petition is for quashing the orders dated 03.02.2022 (Annexure P-11), 06.04.2022 (Annexure P-37),

08.04.2022 (Annexure P-38) as well as order dated 11.04.2022 (Annexure P-39) passed by the trial Court in case FIR No. RCCHG2012A0029 dated 05.09.2012, registered under Section 7 of the Prevention of Corruption Act, 1988 and Section 120-B IPC at Police Station CBI, ACB, Chandigarh.

Learned senior counsel submits that the previous counsel, representing the petitioner, has expired on 04.01.2022 and thereafter, the petitioner was provided a Legal Aid Counsel on 15.03.2022, however, in the meantime, the trial Court passed the order dated 03.02.2022 closing the defence evidence after recording the statement of DW-7 and it was observed that no other witness is present.

Learned senior counsel further submits that thereafter, on 08.02.2022 and 11.04.2022, when the case was listed, the petitioner moved an application under Section 311 Cr.P.C., however, the same was dismissed. Later on, no further opportunity was granted to the petitioner to lead his further defence evidence.

Learned senior counsel has restricted his arguments to the extent that the petitioner may be granted 30 days' time to conclude his defence evidence as he does not press the instant petition with regard to quashing of order dismissing the application filed under Section 311 Cr.P.C.

In the earlier petitions bearing CRM-M Nos. 52359 of 2018 and 48382 of 2019, filed by the petitioner, the following order was passed on 10.12.2021:

“Learned senior counsel, appearing for the respondents, submits that while passing the impugned order, the trial Court has kept the matter open that the application filed by the petitioner for excluding the evidence in respect of his voice recording will be heard at the time of final arguments of the case, therefore, there is no adjudication by the trial Court.

It is further submitted that the case is now fixed for 13.12.2021 for defence evidence and arguments, therefore, the aforesaid application will be heard by the trial Court at the time of final disposal.

Considering the fact that these petitions are pending since long and in the intervening period, the trial has almost come to an end, these petitions are disposed of granting liberty to petitioner to raise all the pleas/defence, which he has taken in the present petitions, before the trial Court and the trial Court shall decide the same in terms of impugned order dated 01.11.2018.

The trial Court is directed to conclude the trial

expeditiously, preferably within a period of four months from today.”

Since the trial Court is yet to take a call for final adjudication on the application filed by the petitioner for excluding the evidence in respect of his voice recording, the prayer for allowing the application filed under Section 311 Cr.P.C. is not sustainable.

Learned counsel for the CBI submits that since a time bound direction was given, therefore, respondent-CBI has already concluded its evidence as the trial Court has afforded sufficient time to the parties to lead their respective evidence.

After hearing learned counsel for the parties, considering the fact that the earlier counsel of the petitioner has expired on 04.01.2022 and he has been provided a Legal Aid Counsel on 15.03.2022, I deem it appropriate to grant 30 days' time to the petitioner to lead his entire defence evidence.

Ordered accordingly.

The petition stands disposed of.

The Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, U.T., Chandigarh is directed to ensure that the entire record be supplied to the petitioner or his legal aid counsel within a period of 03 days from today and thereafter, the defence evidence will be concluded within a

period of 30 days.”

Now the present petition has been filed against adjournment by the trial Court.

This Court finds this petition to be absolutely frivolous and mischievous and the same is dismissed.

It is made clear that in case the petitioner failed to appear before the trial Court on 04.06.2022, it will be open for the trial Court to issue non-bailable warrants against the petitioner for procuring his presence.

02.06.2022
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

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