

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

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CRM-M-6191-2016 (O&M)

Reserved on: 07.12.2022

Pronounced on: 20.12.2022

M/S STEEL AUTHORITY OF INDIA LTD.

... Petitioner

Versus

M/S AJIT COTTON GINNING PRESSING DAL AND STEEL
ROLLING MILLS AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Vikas Mohan Gupta, Advocate and
Mr. Varun Mittal, Advocate, for the respondents.

HARNARESH SINGH GILL, J.

Challenge is to the order dated 09.10.2015 passed by the learned Additional Sessions Judge, Jalandhar, whereby the revision preferred by the petitioner against the order dated 19.03.2014 passed by the learned Judicial Magistrate, 1st Class, Jalandhar, was dismissed and the order dated 19.03.2014 vide which the complaint filed by the petitioner under Sections 409, 467, 471, 420 and 120-B IPC was dismissed and the accused were discharged.

The brief facts of the case are that the petitioner-Authority is a Public Sector Undertaking and was to supply the steel products in the shape of Billets to the respondents-accused, who were to further re-roll the same in various end products; that the rolled material was to remain with the respondents-accused by way of Trust; that the respondents were acting as custodian on behalf of the petitioner-Authority and that the

respondents-accused were further required to supply the rolled material to the customers of the petitioner-Authority against the delivery orders. Therefore, the Stores Procurement Department (SPD), Pampore, Jammu & Kashmir i.e. the customer, had approached the petitioner-Authority to supply 1600 metric tonnes of rolled steel; that the petitioner-Authority issued delivery order to the respondent-accused to supply the steel to the said Department; that in compliance of the said delivery order, the respondents-accused had submitted various challans to the petitioner-Authority showing that the said steel was duly supplied to the customers of the petitioner; that it was at a later stage, the petitioner-Authority came to know that the respondents-accused had not supplied 790 metric tonnes of steel and fabricated the challans qua them and thus, the complaint in question was filed against the respondents-accused on 29.04.2000, as huge amount of public money had been involved.

After taking into consideration the preliminary evidence, vide order dated 10.07.2003, the respondents-accused were summoned under Sections 409, 467, 471, 420 IPC; that the respondents-accused appeared for the first time before the Court concerned on 31.01.2006; that vide order dated 12.06.2008, the case was fixed for complainant's evidence; that vide order dated 19.10.2010, last opportunity was granted to the petitioner-Authority to conclude the pre-charge evidence and that vide order dated 18.04.2011, the evidence of the complainant was closed.

The petitioner-Authority challenged the order dated 18.04.2011, closing the evidence of the complainant, before the Sessions Court, Jalandhar, in a revision, which was dismissed by the said Court on

01.06.2013. Thereafter, the petitioner-Authority filed CRM-M-24968-2013 before this Court challenging the orders dated 18.04.2011 and 01.06.2013 passed by the Courts below. During the pendency of the said petition, the complaint in question was dismissed by the learned trial Court and the respondents-accused were discharged, vide order dated 19.03.2014 and thus, CRM-M-24968-2013 was disposed of on 21.04.2014, as having become infructuous.

The petitioner challenged the order dated 19.03.2014, in a revision, before the revisional Court, which was dismissed by the said Court on 09.10.2015. Hence, the present petition.

Learned counsel for the petitioner submits that the complaint in question was dismissed merely on the ground that for a period of about 5 years i.e. from 30.01.2006 till 08.04.2011, the complainant neither stepped into the witness box nor led any evidence, to support the averments made in the complaint; that the trial Court failed to take into consideration that during the said period, the delay occurred because the respondents-accused had moved an application seeking some documents, in order to facilitate them to cross-examine the complainant's witnesses, which was decided on 12.06.2008 and that there was no intention on the part of the petitioner either to delay the proceedings or to not step into the witness box to record the pre-charge evidence. It is further submitted that the said delay occurred due to the reasons beyond the control of the petitioner. He further submits that the Courts below have failed to appreciate that the petitioner has not derived any benefit by delaying the recording of the evidence in his own case and rather the delay was caused

by the respondents-accused on one pretext or the other by adopting different tactics, as would decipher from the zimni orders passed by the learned trial Court (Annexure P-3). Still further, it is submitted that the petitioner-Authority is a Public Sector Undertaking and embezzlement of a huge public money is involved in the present case.

On the other hand, while opposing the prayer made in the petition, learned counsel for the respondents submits that despite availing of number of opportunities (for about five years), the petitioner-Authority failed to examine any witness and thus, the learned trial Court has rightly dismissed the complaint. He further submits that the respondents-accused were summoned way back in the year 2003 and thereafter, the case was fixed for pre-charge evidence; that the application filed by the respondents for supply of documents was decided in the year 2008: that the matter was thereafter adjourned from time to time enabling the petitioner-Authority to lead the complainant's evidence but the complainant did not bother to do so; that it was only on 29.11.2010 one of the witnesses of the complainant, namely, CW-1 RN Kaul (Junior Engineer of the Store Procurement Department) was partially examined and bound down for 14.01.2011 for his remaining evidence; that on the date so fixed, CW-1 failed to appear and an adjournment was sought; that on 01.02.2011 CW-1 again failed to appear and accordingly, he was ordered to be summoned throughailable warrants; that on 23.02.2011 though CW-1 appeared, yet did not produce the documents sought for and undertook to produce the same on the next date and that thereafter, after granting multiple opportunities, final opportunity was granted to the

petitioner-Authority to conclude its evidence on 18.03.2011 and that, when despite issuance of bailable warrants, none of the witnesses had been examined by the petitioner-Authority, the learned trial Court was left with no option but to dismiss the complaint and discharge the respondents-accused.

I have heard the learned counsel for the parties.

I find no infirmity in the orders passed by the Courts below.

Though the petitioner-Authority is a public sector undertaking, yet the fact remains that for a period of about five years, number of opportunities (including the final opportunity) were granted to the petitioner to lead the evidence in support of the claim raised by them i.e. from 30.01.2006 to 08.04.2011. However, despite that not even one official witness was examined. One CW-1 was examined partly on 29.11.2010 and was bound down for his remaining evidence and for production of the records. The said witness did not turn up for his remaining evidence and also did not bring the documents sought for, though bailable warrants were issued against him repeatedly. The reason for non-production of the record, was that the same was lying at Srinagar. Since, there was no prima facie evidence on record against the respondents-accused, they were rightly discharged by the learned Magistrate on 19.03.2014. Even the appeal filed by the petitioner-Authority, against the order dated 19.03.2014, was rightly dismissed by the learned Appellate Court on 09.10.2015.

It is settled law that the law comes to the rescue of the vigilante. The litigant, who sleeps over his rights, cannot seek relief in

equity. Nothing has been shown that the opportunities granted to and availed of by the petitioner, were insufficient to lead its evidence. Rather, the conduct of the proceedings, speaks the obvious. If a complaint filed in the year 2000 remained pending till 2014 for want of complainant's evidence, one can draw a conclusion regarding the approach of the complainant.

In view of the above, I find no reason to interfere with the orders passed by the Court below.

Dismissed.

20.12.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>