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

**CRM-M No.29171 of 2022(O&M)
Date of Decision: 23.08.2022**

Tejpreet Singh @ Peter

.....Petitioner

Vs

Virsa Singh Valtoha and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Shubreet Kaur. Advocate
for the petitioner.

Mr. Manoj Sharma, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred the present petition under Section 482 Cr.P.C for quashing of impugned order dated 01.04.2022, dismissing the application for restoration of criminal revision i.e. CRR No.37 of 2020 before Additional Sessions Judge, Tarn Taran filed in DDR No.18 dated 27.06.2017 under Section 189 IPC and kalandra dated 27.06.2017. Petitioner has sought quashing of order dated 02.03.2021, dismissing the aforesaid criminal revision as withdrawn. Besides, the aforesaid prayers, the petitioner has also prayed for quashing of order

dated 19.05.2022, dismissing the revision petition i.e CRR No.43 of 2021 against the order dated 28.10.2021 passed by the Chief Judicial Magistrate, Tarn Taran, closing the prosecution evidence by order of the Court.

At the time of issuance of notice of motion on 26.07.2022, following order was passed:-

“Learned counsel for the petitioner, on instructions from the petitioner submits that petitioner does not press for the prayers in this petition except for setting aside order dated 28.10.2021, Annexure P-14 and 19.05.2022, Annexure P-3, whereby evidence of the prosecution has been closed and his revision petition against the same dismissed. It is submitted that one opportunity be provided to the petitioner to lead evidence as his absence before the learned trial Court was not willful, intentional or due to any negligence, but due to unavoidable circumstances as are stated in the petition. Petitioner undertakes to record his statement on the date fixed before the learned trial Court, if an opportunity is afforded to him and he undertakes to be present for the cross-examination, as well.

Notice of motion.

Mr. Arshdeep Singh Kler, Advocate, accepts notice on behalf of respondent no.1. Memo of appearance filed on behalf of respondent no.1, in Court today is taken on record subject to just exceptions.

Mr. Navdeep Chhabra, DAG., Punjab, accepts notice on behalf of respondent no.2-State. Copies of petition be supplied to learned counsel for the respondents during the course of the day.

At request, adjourned to 23.08.2022.

In the meanwhile, final order be not passed by the learned trial Court.

July 26, 2022.

s.khan

**(LISA GILL)
JUDGE”**

Learned counsel for respondent No.1 submits that respondent No.1 does not wish to file any written statement on behalf of respondent No.1 and would argue the case on the basis of material on record.

I have heard learned counsel for the parties.

Evidently, the petitioner has not pressed his prayer except for setting aside the orders dated 28.10.2021 and 19.05.2022, vide which the prosecution evidence was ordered to be closed and revision to that effect was also dismissed by the revisional Court.

Learned counsel for the petitioner seeks indulgence of this Court for grant of one last opportunity to the petitioner to lead his entire evidence on the ground that the absence of the petitioner before the trial Court was not willful, but the same was due to some unavoidable circumstances owing to the situation arising out of COVID-19 as well. Learned counsel further submits that the presence of Advocate on behalf of the petitioner cannot be construed to mean that there was any intentional lach on behalf of the petitioner in not appearing

before the Court.

It is true that the lawyer stands in a fiduciary capacity to the client i.e. the petitioner and his duties are more demanding than the one in other cases of agencies. The law of agencies does not apply as a strict relationship of lawyer and client. Reference can be made in this context to **Himalayan Coop. Group Housing Society Vs. Balwan Singh and others, (2015) 7 SCC 373.**

The procedural law is handmade of justice. The cause of justice should not suffer on mere technicalities. When technicalities are pitted against a substantial cause of justice, then cause of justice should prevail. At the same time, there is some omission on behalf of the petitioner as well, for which, reasonable costs can be imposed.

In view of facts and circumstances of the case, I deem it appropriate to grant one opportunity to the petitioner to lead his entire evidence on a date to be fixed by the trial Court after due notice to both the parties. The aforesaid opportunity, however subject to payment of costs of Rs.10,000/- to be deposited in the Poor Patient Welfare Fund, PGIMER, Chandigarh. Payment of costs, shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Disposed of.

23.08.2022

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No