

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

**CRR-1975-2019 (O&M)
Date of decision : 14.09.2022**

Harpal Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Salar, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

Mr. Ishan Gupta, Advocate with
Ms. Deepali, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present revision petition, challenge has been laid to the judgment dated 09.07.2019 passed by Additional Sessions Judge, Sangrur.

2. During pendency of the appeal, an application was filed under Section 311 Cr.P.C. for leading additional evidence by the complainant-appellant. Vide impugned judgement, Appellate Court allowed the complainant to produce copy of judgment and decree dated 07.07.2018 by way of additional evidence and also allowed the appeal remanding the case back to the trial Court with a direction to decide the case afresh. The precise contention raised by Mr. Salar is that no reasons have been recorded by the Appellate Court to remand the case back apart from the fact that the application leading additional evidence was partly

allowed. He has limited his prayer qua the remand part only. He thus submits that even if the Appellate Court had power under Section 386 Cr.P.C. to remand the matter back, there has to be some cogent reason to exercise the same. In the present case, there was no such cogent reason assigned by the Court in the impugned judgment and thus the same cannot be sustained.

3. Mr. Gupta appearing for respondent No.2 submits that the Appellate Court was well within its power to remand the case back once the additional evidence has been allowed. He further contends that the remand is only to a limited extent to consider the certified copy of the judgment and decree dated 07.07.2018 which has been allowed to be produced by way of additional evidence. He relies upon ***P. Ramesh vs. State Rep by Inspector of Police reported as 2019 (20) SCC 593*** and ***Surinder Singh vs. State of Punjab*** reported as ***1988(1) AICLR 682*** to contend that the Appellate Court is empowered to remand the matter back while exercising its jurisdiction.

4. I have heard counsel for the parties and have gone through the records of the case.

5. There is no dispute w.r.t. vesting of power with the Appellate Court to remand the case back. However, the question is as to whether the Appellate Court was justified to set aside the judgment without assigning any reason. The only reason assigned by the Appellate Court is that the additional evidence is being allowed and the judgment has to come on record.

6. In such case, where matter is being remanded only for the purpose of taking evidence, the Appellate Court could have resorted to

procedure prescribed under Section 391 Cr.P.C. and was not justified in setting aside the judgment passed by Trial Court. Consequently, judgment dated 09.07.2019 is set aside to the extent the appeal has been allowed and the matter has been remanded back to the trial Court to decide it afresh.

7. The Appellate Court has allowed application for additional evidence. Thus the complainant will be allowed to lead additional evidence as per the judgment dated 09.07.2019 and the Appellate Court shall decide the appeal after taking additional evidence in accordance with law.

8. The parties are directed to appear before the Appellate Court on 28.09.2022.

9. Ordered accordingly.

10. Since the main case has been decided, pending criminal miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

14.09.2022

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Whether speaking/reasoned : Yes

Whether Reportable : No