

230

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-39803-2021 in/and
CRM-M-40955-2019 (O&M)
Date of Decision: 28.02.2022

M/s Goyal Sons and others

..... Petitioners

Versus

Hanuman Singla

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjeev Roy, Advocate,
for the applicants/petitioners.

Mr. Alok Mittal, Advocate,
for the non-applicant/respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-39803-2021:

For the reasons mentioned in the application, the same is allowed and the next date of hearing in the main petition is preponed from 30.03.2022 to today itself for consideration.

CRM-M-40955-2019:

The present petition has been filed for quashing of order dated 08.07.2019, passed by the learned Judicial Magistrate Ist Class, Jalandhar, in Complaint No. NACT/4328 of 2016, titled as “Hanuman Singla Vs. M/s Goyal Sons and others” registered under Section 138 of the Negotiable Instruments Act, vide which the prayer of the petitioners to summon the official from the Office of District Transport Officer, Jalandhar, has been declined.

Learned counsel for the petitioners argues that a co-ordinate

Bench of this Court while passing order in CRM-M-9565-2019 on 13.05.2019, granted an opportunity to the petitioners to led evidence in his defence subject to payment of costs but the said effective opportunity could not be availed by the petitioners as the father of the petitioners was not well and, therefore, they could not pursue the said case diligently. Learned counsel further submits that as outcome of the complaint can restrict liberty of the petitioners, along with penalty, due opportunity be granted to the accused so as to defend themselves against the allegations levelled in the case. Learned counsel also submits that the petitioners have already moved an application before the learned trial Court for summoning the official from the District Transport Officer, Jalandhar, and they will serve the said Office *dasti* and will ensure the presence of the officials concerned so as to present their defence that the vehicles, stated to have ferried the items, were carrying fake numbers.

On the other hand, learned counsel appearing on behalf of the respondent vehemently submits that once this Court while passing order in the above said CRM-M-9565-2019 had granted one opportunity to the petitioners to led their evidence in defence and they failed to present their defence by availing the said opportunity, the petitioners now cannot approach this Court for grant of the same benefit once again.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

As the petitioners are facing criminal proceedings, wherein ultimately if proven guilty, their liberty will be restricted along with imposition of fine, hence keeping in view the facts and circumstances of this case, one more opportunity is granted to the petitioners to present their

defence by summoning the officials from the Office of District Transport Officer, Jalandhar. The learned trial Court is directed that in case, any such application is already pending consideration with the said Court or has already been filed by the petitioners with the said request, the officials of the District Transport Officer, Jalandhar, be summoned for a particular date by giving the petitioners *dasti* summon and it will be duty of the petitioners to summon the officials and get the requisitions along with the witnesses.

It is made clear that not more than three adjournments (that too short) will be given to the petitioners for summoning and examining the officials from the District Transport Officer, Jalandhar.

As the complaint filed by the respondent is pending since the year 2016 and five years have already elapsed, it is directed that after following due process of law, the said complaint be also disposed of finally within a period of six months from the next date of hearing.

The above order will be subject to the payment of Rs.15,000/- as cost by the petitioners, to be deposited with Prabh Aasra, Unit of Universal Disabled Care Taker Social Welfare Society (who are maintaining orphans) in Bank Account No.014894600000970, S.C.O. 151-152, Sector-9C, Chandigarh or Account No.100035657241 of IndusInd Bank, Sector-54, Phase-II, Mohali Branch, by the petitioners.

The present petition along with the pending application, if any, stand disposed of.

28.02.2022
Apurva

(HARSIMRAN SINGH SETHI)
JUDGE