

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 54460 of 2021
Date of Decision: 19.1.2022**

Suresh Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. On 2.12.2021, the learned Additional Sessions, Mansa, made the hereinafter extracted order:-

“Appellant Suresh Kumar has submitted one bill dated 30.12.1994 regarding purchasing of refrigerator. Partly arguments on application dated 5.3.2020 advanced by appellant Suresh Kumar. During arguments appellant Suresh Kumar has stated that he was suffering from back pain and unable to advance further arguments. Granted. In the interest of justice, case is adjourned to 10.12.2021 for remaining arguments on application under Section 311 Cr.P.C. and for arguments on application under Section 319 Cr.P.C., 310 Cr.P.C., applications dated 19.5.2017, 20.5.2017, 6.6.2019, 28.2.2020, 5.3.2020, 4.12.2020, 14.12.2020, 6.1.2021 and for arguments on main appeal.”

2. A reading of the above extracted order, reveals that applications respectively cast, under Sections 311, 310, and, under Section

319 Cr.P.C., were ordered to be listed on 06.1.2021. However, a reading of the afore order also details that, on the afore date, the learned Additional Sessions Judge, Mansa, had made an order for arguments, being made not only upon the afore applications but also upon the main appeal.

3. Learned counsel for the petitioner impugns the ordering of conjoint hearing(s) being made upon the applications (supra), and, also upon the main appeal, as upon a conjoint decision being recorded, adverse to the petitioner, more especially, on the application cast under Section 311 Cr.P.C., alongwith a decision on merits, thereupon the aggrieved complainant would lose an opportunity to assail the disaffirmative order, if any, as may become pronounced, upon his application under Section 311 Cr.P.C., as it would merge in the decision made on the main appeal. Besides obviously, there would be no efficacious remedy for the complainant to, after a conjoint decision on merits, being recorded, on the main appeal, and a disaffirmative decision, being made on the application (supra), to cast a valid challenge thereon.

4. Consequently, for ensuring that prior to the listing of the main appeal for arguments, decisions are recorded by the learned Additional Sessions Judge, Mansa, on the above applications, the impugned order insofar as it orders for conjoint listing, and, hearings being made upon the main appeal, and, upon the miscellaneous applications, is quashed, and, set aside.

5. Therefore, the learned Additional Sessions Judge, Mansa, is directed to, before making a decision upon the main appeal, to decide in accordance with law, the afore miscellaneous applications, so as to give an opportunity to the aggrieved concerned, to access the appropriate remedy, in

accordance with law.

6. The petition is disposed of.

(SURESHWAR THAKUR)
JUDGE

January 19, 2022
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes