

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

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CRR-2653-2022

Date of Decision: 12.12.2022

Bhagwan Dass @ Bhagwan Lal and others

.... Petitioners

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Dilpreet Singh Gandhi, Advocate for the petitioners.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present revision petition under Section 401 of the Code of Criminal Procedure, 1973 for setting aside the order dated 26.10.2022 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby the application filed by the petitioners for recalling of prosecution witnesses was dismissed.

Learned counsel for the petitioners submits that learned trial Court failed to take into consideration that previous counsel has inadvertently ignored the fact that one of the accused namely Rattan Chauhan, who was a juvenile at the time of the commission of alleged crime was being tried under this trial as an adult and was recently declared juvenile by the trial Court after it was brought to the notice of the Court. Learned trial Court has also not considered the fact that there are a few very important questions which should have been put to the complainant qua the incident which are missing in the cross-examination. Therefore, the petitioners may be allowed to re-examine PW-1 Shyam

Bahadur, PW-2 Ravi Chauhan and PW-3 Khazanchi Chauhan. Learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Supreme Court passed in ***P.Sanjeeva Rao Vs. State of A.P. : 2012(3) RCR (Criminal) 653.***

I have heard learned counsel for the petitioner and gone through the paper-book.

In ***State of U.P. Vs. Shambhu Nath Singh : 2001(2) RCR (Criminal) 390*** Hon'ble Supreme Court observed as under :-

“witnesses tremble on getting summons from courts, in India, not because they fear examination or cross-examination in courts but because of the fear that they might not be examined at all for several days and on all such days they would be nailed to the precincts of the courts awaiting their chance of being examined. The witnesses, per force, keep aside their avocation and go to the courts and wait and wait for hours to be told at the end of the day to come again and wait and wait like that. This is the infelicitous scenario in many of the courts in India so far as witnesses are concerned.....”

In that case, Hon'ble Supreme Court had given directions regarding examination of the witnesses in attendance and also conclusion of trial by taking up the case on day to day basis or by conducting trial by fixing dates in a session and impressed upon the Courts to avoid grant of unnecessary adjournments and take effective remedial measures by cancellation of bail or imposition of heavy costs.

Despite Hon'ble Supreme Court having given various directions in the catena of judgments for ensuring giving of due priority

to timely examination of the witnesses, the witnesses are still harassed and every effort is made by the accused to delay their examination and more often than not the witnesses are harassed by asking them to appear again and again for their cross-examination by seeking unnecessary adjournments on the ground of non-availability of the defence counsel or even absence of one or other of the accused during trial.

The present case is also a befitting illustration of the dilatory tactics adopted by the accused during trial to delay examination of the witness. The change of counsel in itself cannot be ground to recall the witnesses for further examination or cross-examination. Even no indication has been given as to what material questions could not be put to the prosecutions witnesses.

In view of the above, the present petition is dismissed.

12.12.2022

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No