

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 115

CRM-M-462-2023

Date of decision : 23.01.2023

Sukhdev Singh @ Bobby

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.H.S.Dhandi, Advocate, for the petitioner.

Mr.Arun Luthra, DAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks issuance of directions to the Additional Sessions Judge (for short, the Trial Court) to finally decide Sessions Case No.357 of 2015 which originates from FIR No.81 dated 18.05.2015 registered under Sections 365 IPC (Sections 302, 201 and 34 IPC added later on) at Police Station Division No.7, Jalandhar.

Learned State counsel informs the Court that on 18.01.2023 the Trial Court has convicted the petitioner under Sections 302/34, 201/34 and 364/34 IPC and that in pursuance to such conviction the petitioner has been sentenced to life imprisonment on 20.01.2023 under Sections 302/34 IPC; three years rigorous imprisonment under Sections 201/34 IPC and ten years rigorous imprisonment under Sections 364/34 IPC. All the sentences have been directed to run concurrently.

In the light of the above, the cause for which the petitioner had approached this Court through the instant petition has been rendered infructuous.

However, there is another aspect. On 09.01.2023 this Court had

passed the following order: -

“Learned counsel for the petitioner inter alia contends that FIR No.81 dated 18.05.2015 was registered against the petitioner under Section 365 IPC (Sections 302, 201 & 34 IPC added later on) in Police Station Division No.7, Jalandhar; after investigation the police filed a report under Section 173 Cr.P.C. on the basis whereof the petitioner was charge-sheeted to face trial under Sections 364, 302 and 201 read with Section 34 IPC; in the trial which ensued the prosecution led its entire evidence by 01.02.2019; the defence evidence also led its entire evidence by 12.04.2019; thereafter an application was filed by the prosecution under Section 311 Cr.P.C. for recalling of two prosecution witnesses which was allowed by the Trial Court on 29.08.2019 and thereafter these witnesses were examined; on 15.01.2021 the petitioner's statement under Section 313 Cr.P.C. was recorded by the Trial Court; through order dated 15.02.2021 another application was filed by the State under Section 311 Cr.P.C. to recall another prosecution witness which was dismissed; on 18.02.2021/19.02.2021 final arguments were partly addressed before the Trial Court and the matter was adjourned for further arguments; thereafter, for nearly two years the petitioner's trial has been adjourned on several occasions and now is posted for 18.01.2023 and that the afore delay in disposal of the petitioner's trial is either because on several occasions the petitioner, who is in custody, was not produced by the prosecution before the Trial Court or because the Trial Court mechanically adjourned the matter 'for production of PWs/DWs' in spite of the fact that such exercise had already been over long ago.

Notice of motion.

Mr. Arun Luthra, DAG, Punjab accepts notice on behalf of the State and prays for time to seek instructions/file reply.

Adjourned to 23.01.2023.

To be taken up in the urgent cases.

Before the adjourned date an affidavit of the Commissioner of Police, Jalandhar shall be filed detailing therein the reasons as to why after 18.02.2021 on several occasions the petitioner was not produced before the Trial Court causing delay in the disposal of his trial.

The District and Sessions Judge, Jalandhar shall also personally look into the matter and file a report in a sealed cover as to why after 18.02.2021 the petitioner's trial was adjourned for production of PWs/DWs when as per the orders placed on the record by the petitioner, all the PWs/DWs had already been produced much earlier.”

In pursuance to the afore quoted order of this Court, the State has filed a status report in Court today through which this Court has *inter alia* been informed the reasons for non-production of the petitioner/accused before the Trial Court which are as follows: -

1. The petitioner/accused had been transferred from Central Jail, Kapurthala to Amritsar jail but his production warrants/summons were sent to Central Jail, Kapurthala.
2. Non-availability of adequate security/force in the Amritsar jail.

A sealed report dated 21.01.2023 from the District & Sessions Judge, Jalandhar has also been received which has been opened in Court. The operative part of the report reads as under: -

“After going through the record of this case minutely, the gist is that the accused had formally closed his evidence on 6.7.2022 and thereafter, as explained in the earlier part of the report, the case remained pending mainly for production of accused and decision on application under Section 311 Cr.P.C.

When the case was put up for the first time before Sh.Krishan Kant Jain, Addl. Sessions Judge, Jalandhar, on 17.10.2022, it was fixed for production of accused as well as for summoning the PWs. Thereafter, the case was adjourned for examining the remaining DWs, if any, and for arguments. The officer has erred by fixing the case initially for PWs on first date and subsequently for the DWs on the subsequent dates, whereas the defence evidence was already closed on 6.7.2022.”

Inadequacy of security/staff as a ground for non-production of under-trials in their trial is not acceptable. Therefore, directions are issued to the Home Secretary, Government of Punjab to take up the matter with all concerned agencies of the State and then pass appropriate directions to ensure that on all dates in their trial, unless specific exemption is sought from the Trial Court, the State produces the under-trials before the concerned Trial Court.

The issue of mechanically recording of interim orders by the Trial Court for production of PWs/DWs when such exercise had been completed long ago, be placed before the Administrative Judge for Jalandhar Sessions Division for appropriate orders to be passed at his end.

23.01.2023
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No