

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

251

CRM-M-24637-2016 (O&M)

Date of Decision: 09.08.2023

HARDEV SINGH

... Petitioner

Versus

STATE OF PUNJAB AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Aman Bansal, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

Mr. GBS Dhillon, Advocate
for respondents No.2 and 3.

HARNARESH SINGH GILL, J.(Oral)

Challenge is to the order dated 04.06.2016 (Annexure P-10) passed by the learned Additional Sessions Judge, Ludhiana, vide which the revision filed against the order dated 19.01.2016 (Annexure P-8) passed by the learned Sub-Divisional Judicial Magistrate, Payal, closing the evidence of the prosecution by order, was dismissed.

2. Learned counsel for the petitioner submits that FIR No.10, under Sections 420, 467, 468, 471, 120-B IPC, at Police Station Payal, was registered on 14.01.2008; that the said FIR was registered at the instance of the petitioner/complainant against respondents No.2 and 3, namely, Gurmail Singh and Jaspal Singh and specific allegations have been raised against them; that the challan was presented on 01.08.2008 and the charges were framed on 23.01.2009 and that, thereafter, the

charges were amended on 31.07.2009 and the case was adjourned to 22.01.2010 for leading prosecution evidence.

3. Learned counsel for the petitioner further submits that on 21.04.2012, the petitioner/complainant appeared before the learned trial Court along with his counsel, but the learned Presiding Officer was on leave and the case was adjourned to 11.06.2012; that on 11.06.2012, the petitioner/complainant along with one of the attesting witnesses, namely, Darshan Singh, appeared before the learned trial Court and their examination-in-chief were recorded as PW-1 and PW-2; that the cross-examination of PW-1 and PW-2 was deferred and the case was adjourned to 13.07.2012; that on 13.07.2012, the cross-examination of the petitioner/complainant (PW-1) and PW-2 was not conducted and the case was adjourned to 23.07.2012 and that on 23.07.2012, cross-examination of petitioner/complainant-PW-1 was recorded, but that of PW-2 could not be recorded and the case was again adjourned for 05.10.2012. He further submits that thereafter the case was transferred to some other Court and that on 08.06.2015, though the case was fixed for leading remaining prosecution evidence, yet the fact remains that the learned trial Court closed the evidence of prosecution by order and statement of accused under Section 313 Cr.PC. was recorded and that on the said date itself i.e. 08.06.2015, the accused tendered into his defence evidence some documents and close the same.

4. Learned counsel for the petitioner further submits that against the order dated 08.06.2015, the petitioner filed a revision petition

before the learned Additional Sessions Judge, Ludhiana and though, the said revision petition was dismissed vide order dated 31.07.2015, yet the trial Court was directed to pass appropriate order, as per the law. He further submits that in compliance of the order dated 31.07.2015 passed by the learned Appellate Court, the petitioner had moved an application dated 12.08.2015 to lead the remaining evidence and to examine the witnesses i.e. Darshan Singh (cross-examination pending) and Investigating Officer (examination-in-chief yet to be recorded) and that the said application was allowed vide order dated 07.12.2015 by the learned Sub-Divisional Judicial Magistrate, Payal and Darshan Singh and Investigating Officer, were summoned for their examination on 07.01.2016. Still further, it is submitted that 07.01.2016, no PW was present and the matter was adjourned for 19.01.2016, but on the said date the remaining prosecution evidence was again closed by order. He, thus, argues that the orders passed by the Court below closing the prosecution evidence by order are against the settled law and are based on conjectures and surmises; that no effective opportunity was granted to lead the remaining prosecution evidence, at any stage and prays that another opportunity be granted to the prosecution to lead the remaining prosecution evidence i.e. Darshan Singh (cross-examination pending) and Investigating Officer (examination-in-chief is yet to be recorded).

5. Again, aggrieved against the order dated 19.01.2016, the petitioner filed a revision petition before the learned Additional Sessions Judge, Ludhiana, which was dismissed vide order dated 04.06.2016.

6. Still aggrieved, the present petition has been filed.

7. On the other hand, learned counsel for respondents No.2 and 3 vehemently opposes the prayer made in this petition. He contends that the FIR was registered way back in the year 2008; challan was presented on 01.08.2008 and the charges were framed on 23.01.2009, which were later on amended 31.07.2009 and since then respondents No.2 and 3 have been facing the agony of trial. He further contends that the petitioner/complainant is deliberately delaying the proceedings on one pretext or the other. Still further, it is contended that earlier also, the petitioner/complainant had filed a revision against the order dated 08.06.2015 vide which the evidence of the prosecution was closed by order; that on the statement suffered by the petitioner/complainant that he would file an appropriate application before the trial Court to record the statements of the prosecution witnesses, the said revision petition was dismissed on 31.07.2015 and the trial Court was directed to consider the application moved by the petitioner/complainant for leading the remaining evidence and that the application so filed by the petitioner/complainant was allowed by the learned trial Court and another opportunity was granted to the prosecution agency to lead the remaining evidence, but to no avail. He, thus, prays for dismissal of the present petition.

8. I have heard the learned counsel for the parties.

9. Indisputably, the FIR in question was registered way back in the year 2008; challan was presented on 01.08.2008 and the charges were

framed on 23.01.2009, which were later on amended 31.07.2009. Till 08.06.2015, the prosecution had availed more than 25 effective opportunities to lead its evidence but failed to do so. It was on the said date i.e. 08.06.2015, the prosecution evidence was closed by order for the first time. Thereafter, on an application moved under Section 311 Cr.PC., another opportunity was granted to the prosecution to lead the remaining evidence, but to no avail. Again on 19.01.2016, after granting two more effective opportunities, the prosecution evidence was closed by order. Thus, it is evident that, though, the prosecution had availed ample opportunities to lead the prosecution evidence, yet failed to do so, the prosecution/the complainant cannot seek any further indulgence, which, if allowed, will hamper the rights of respondents No.2 and 3, who have been facing the agony of trial since the year 2008 i.e. for almost about 15 years now. It is settled law that the equity can be invoked by those, who remain vigilant about their rights.

10. In view of the above, no ground is made out to grant another opportunity to the prosecution to lead the remaining prosecution evidence and that too at this belated stage.

Dismissed.

09.08.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>