

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-40419-2018
Date of Decision: 18.08.2023

M/S MANIKARAN SALES AND ANR

....PETITIONERS

Versus

M/S RIPPI TRADERS

...RESPONDENT

CRM-M-40982-2018

M/S ASHISH KNITWEAR AND ANR

....PETITIONERS

Versus

VIVEK GUPTA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Behl, Advocate
for the petitioners.

Mr. S.S. Majithia, Advocate
for respondent.

PANKAJ JAIN, J.(Oral)

1. The present petition has been filed under Section 482 Cr.P.C. challenge has been raised to the order dated 20.08.2018 passed by Additional Sessions Judge, Ludhiana placed on record as (Annexure P-6) affirming the order dated 12.03.2018 passed by Judicial Magistrate Ist Class, Ludhiana whereby the defence evidence of the petitioner stands closed.
2. While issuing notice of motion this Court on 14.09.2018 observed as under:-

“Learned counsel for the petitioners contends that vide Order dated 15.12.2016; the application for summoning all witnesses was partly allowed by the Trial Court. Besides some officers mentioned by designation, two

police officers were specifically named in the Order, which were allowed to be examined by the petitioners. It is contended by the counsel for the petitioners that after this order, initially the summons were issued to these witnesses; which were allowed to be examined vide Order dated 15.12.2016. Some of them did appear and were examined before the Court. However, some of them, including Shir Ramnish Chaudhry, DSP (East) Ludhiana and Harmohan Singh, ADCP-4, Ludhiana did not appear before the Court. It is further pointed out by learned counsel that thereafter, the non-bailable warrants were also issued by the Trial Court on 14.07.2017; for ensuring the presence of the remaining witness; including the above said two police officials. However, despite that the above said police officers and some of the official witness did not appear before the Court. The witnesses being the official witness; the petitioners could not have forced them to appear before the Trial Court. Resultantly, these witnesses did not appear and the evidence of the petitioners was closed by the Trial Court. Learned counsel contends that the revision filed by the petitioners against the order of closure of the evidence has been dismissed only on the ground of delay.”

3. On 26.11.2018, the following order was passed.

“Learned counsel for the petitioner is directed to place on record the zimni orders passed after the date his application for summoning the witnesses was allowed.

Adjourned to 11.12.2018.

Shri Ramesh Chaudhry, DSP(East) Ludhiana and Shri Harmohan Singh, ADCP-4, Ludhiana are directed to remain personally present in Court on the next date of hearing.”

4. On 11.12.2018, the officers came present and claimed that infact they were neither served with any notice, summon or nor any warrant have been executed against them and thus, being ignornant of the

proceedings they could not appear before the Court. The aforesaid assertions made by the petitioner found to be correct and qua that the departmental proceedings were initiated against the erring personnel.

5. In view of above, it is thus, clear that even though the witnesses were ordered to be summoned but in fact could not be served and despite that the defence evidence of the petitioner was ordered to be closed.

6. Learned counsel for the petitioner submits that a case wherein the Court (jurisdiction) under Section 482 Cr.P.C should interfere and the rights of the petitioner to lead evidence in defence should be allowed and the impugned order which has been passed is incomplete mis-reading of the record, be quashed.

7. Learned counsel for the respondent, however, submits that 03 statements of the petitioner was recorded on 01.12.2015 and on 12.02.2016 defence evidence started which was finally closed by the impugned order dated 12.03.2018 and even thereafter the present petition was filed on 06.09.2018.

8. Having heard learned counsel for the parties and gone through the records of the case, this Court finds that from the proceedings before the trial Court it is evident that the impugned order dated 12.03.2018 (Annexure P-4) has been passed by the learned trial Court completely without noticing that in fact the summons were never served upon the witnesses. Likewise the warrants also could never be executed. Thus the order closing the defence evidence cannot be sustained. However, keeping in view the fact that the matter is pending for defence evidence for last more than 7 ^{1/2} years, trial Court is directed to expedite the trial and conclude the same preferably within a period of 03 months.

9. The present petitions stands disposed of.

18.08.2023

pry

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No