

CRM-M-25946-2019
(241)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25946-2019 (O & M)
Date of decision: 01.09.2023

Anoop Kumar

.... Petitioner

V/s

Nirmal Mahajan and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sahil Soi, Advocate,
for the petitioner.

Mr. Baljinder Singh, Advocate,
for respondent No.1.

Ms. Shreya Rana, Advocate,
for respondents No.2 and 3.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 09.05.2019 (Annexure P-1) passed by the Judicial Magistrate Ist Class-13, Jalandhar in a complaint No.COMI/322/2014 dated 23.07.2014 under Sections 326, 323, 324, 506 and 34 IPC in which the evidence of the petitioner has been closed by order and the case is now fixed for consideration on charge.

2. The brief facts of the case are that the petitioner-complainant filed a complaint against the respondent-accused under Sections 326, 323, 324, 506 and 34 IPC in which after recording preliminary evidence, the case was fixed for pre-charge evidence.

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3. In the pre-charge evidence, the petitioner-complainant got examined CW-1 and CW-2 on different dates. On 21.02.2019, CW-3/Bal Mukand was got examined by the complainant-petitioner, and thereafter, the matter was adjourned to 19.03.2019, 23.04.2019 and finally to 09.05.2019 on which date, the impugned order came to be passed.

4. The learned counsel for the petitioner-complainant contends that on 09.05.2019, the petitioner-complainant was very much present in the Court. However, as his counsel was unwell on that date, the petitioner-complainant sought an adjournment. But, inadvertently, it had been recorded in the order that the petitioner-complainant himself was undergoing treatment whereas it was his counsel who was undergoing treatment and the petitioner-complainant was very much present in the Court. He contends that the order, Annexure P-1, is unduly harsh and one opportunity be granted to record the pre-charge evidence.

5. The learned counsels for the respondents-accused, on the other hand, contend that sufficient opportunities had been accorded to the petitioner-complainant to lead the pre-charge evidence. However, the same was not done and it was the fault of the petitioner-complainant because of which, the impugned order came to be passed. They, therefore, pray that as the complaint pertains to the year 2014, no indulgence should be shown to the petitioner-complainant and the present petition was liable to be dismissed.

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

7. As per the report of the Trial Court submitted to this Court, the contention of the petitioner-complainant appears to be correct regarding his

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fact that the petitioner-complainant has been diligently pursuing the complaint from the year 2014 shows that what transpired on 09.05.2019 was possibly beyond his control. Therefore, without going into the rival contentions of the parties, it would be appropriate if one effective opportunity is granted to the petitioner-complainant to record his pre-charge evidence subject to payment of reasonable costs to the accused-respondents.

8. In view of the above, the present petition is allowed. The order dated 09.05.2019 (Annexure P-1) is set aside and subject to a payment of Rs.5,000/- as costs to the accused-respondents, the petitioner-complainant is accorded one effective opportunity to record his pre-charge evidence after which the Trial Court is free to proceed with the matter in accordance with law.

9. The parties are directed to appear before the Trial Court on 03.10.2023 for further proceedings.

10. The present petition is disposed in the above-terms.

(JASJIT SINGH BEDI)
JUDGE

September 01, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No