

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

(248)

**CRM-M-45133 of 2022
DATE OF DECISION:-10.05.2023**

Amarpal

...Petitioner

vs.

Soniya @ Jyoti and Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Aakash Yadav, Advocate, for the petitioner.

Mr. Sandeep Yadav, Advocate, for
Mr. R. K.Girdhwal, Advocate, for respondent No.1.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of the order dated 26.08.2022 (Annexure P-1) passed by the Court of Additional Chief Judicial Magistrate, Sonapat, whereby, the opportunity granted to the petitioner-complainant to lead his pre-charge evidence was closed.

(2) Facts of the case are that the petitioner filed a complaint i.e. CIS No.COMI/176/2014 under Sections 499, 500, 504, 506 read with Section 34 IPC against the respondent on 12.08.2014 wherein summoning order was passed against the respondents by the Court of JMJC, Sonapat on 12.05.2017.

(3) Post appearance before the trial Court, matter was listed for recording of pre-charge evidence for 22.04.2019, however, since then the petitioner could not record even a single witness resulting into passing of the order dated 26.08.2022 whereby, the opportunity to lead pre-charge evidence was closed against the petitioner. It is the said order which has

been impugned by way of present petition.

(4) Learned counsel for the petitioner submits that the non-examination of witness by the petitioner before the trial Court was mainly attributed to the Covid-19 situation and the intermittent breaks in the Court hearings followed by unfortunate demise of his counsel. He further submits that in case the impugned order is allowed to stand, the petitioner is going to suffer irreparable losses as he would not be able to seek grievance regarding his rights on merits.

(5) On the other hand, learned State counsel representing respondent submits that the only motive of the petitioner is to harass and humiliate the petitioner by continuing with the proceedings before the trial Court as he has already taken more than 3 years but has failed to record even a single witness.

(6) I have heard learned counsel for the parties and gone through the paper book.

(7) Though it is apparent that petitioner has already availed 11 effective opportunities and has failed to record even a single witness before the trial Court as pre-charge evidence, however, considering the facts and circumstances wherein, the majority of intervening period and opportunities went through the period of Covid-19 besides the fact that petitioner even lost his counsel in between the proceedings, I deem it appropriate to afford two effective opportunities to the petitioner so as to conclude his entire pre-charge evidence at his own risk and responsibility, subject to payment of Rs.10,000/- which shall be paid to the respondents as a condition precedent so as to balance the equities. Parties through their counsel shall appear before the trial Court on 26.05.2023.

In view of the above, present petition is allowed.

10.05.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No