

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-52473-2018

Date of decision: 24.04.2023

Narinder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Divya Godara, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

Mr. Manish Prabhakar, Advocate
for respondents No.2 to 4.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is impugning the order dated 16.12.2017 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Amritsar vide which the evidence of the prosecution was closed by order and order dated 12.09.2018 (Annexure P-3) passed by learned Additional Sessions Judge, Amritsar vide which revision preferred by the petitioner against the order dated 16.12.2017 was dismissed.

2. Learned counsel appearing for the petitioner submits that the impugned orders deserve to be set aside as it had been wrongly observed by the Courts below that despite last opportunity given to the prosecution witnesses to conclude their evidence they had failed to do so. Learned counsel while drawing the attention of this Court to order dated 13.12.2017, submits that no such last opportunity was granted to

the prosecution to conclude its evidence, hence, the Court's observations were contrary to the record and clearly erroneous.

3. Per contra, learned counsel appearing for respondents No.2 to 4 has placed on record a true photocopy of the order dated 13.12.2017, which is taken on record subject to all just exceptions. He submits that on 13.12.2017 the Court concerned had indeed granted last opportunity to the prosecution to conclude its evidence and it was only thereafter the case was adjourned to 16.12.2017. He submits that on the said date, no prosecution witness was present and as a result of which the Trial Court rightly passed the impugned order.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. A bare perusal of the zimni orders reveals that the charges were framed on 09.09.2014, and thereafter the case was repeatedly adjourned for as many as 54 dates while giving the present petitioner multiple opportunities to examine its witnesses, however, for reason best known to him, the petitioner failed to conclude his evidence. Resultantly, the learned Trial Court had granted one last opportunity to the petitioner vide its order dated 13.12.2017 for concluding his evidence. As no prosecution witness was present on 16.12.2017, the learned Trial Court closed the prosecution evidence vide order of even date.

6. The maxim "*Vigilantibus Non Dormientibus Jura Subveniunt*" i.e. the law assists those who are vigilant with their rights and not those that sleep thereupon is very much applicable to the case in hand as the material on record clearly reflects the lackadaisical

approach of the petitioner in not getting the prosecution witnesses examined despite repeated opportunities given by the learned Trial Court. Thus, the accused cannot be denied his right to speedy trial by subjecting him to face trial for an indefinite period of time for no fault of his.

7. Furthermore, no doubt the right to lead evidence, is a valuable right vested in the parties in any litigation, however, if a party is not making the witnesses available for examination despite being given number of adjournments, without any cogent reason, the Court would be justified in closing the party's right to lead evidence by order, as has been rightly done in the instant case.

8. The instant petition being devoid of merit is accordingly dismissed.

24.04.2023

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(MANJARI NEHRU KAUL)
JUDGE

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