

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7087-2024

Date of Decision: February 12, 2024

GURDEEP SINGH

.....Petitioner

Versus

STATE OF PUNJAB AND ORS

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Buta Singh Bairagi, Advocate for the petitioner.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for quashing the order dated 02.09.2023 passed by Judicial Magistrate First Class, Moga whereby, the petitioner has been summoned in exercise of powers under Section 319 CrPC.

2. Learned counsel for the petitioner submits that against the said order, the petitioner has already availed his remedy of filing revision petition before the Court of learned Additional District and Sessions Judge, Moga and the same came up for hearing on 22.11.2023 and notice was issued to the respondent No.2 for 20.12.2023. Learned counsel submits that although, an application for grant of stay of proceeding has also been moved before the Court, however, on account of non-service of notice upon respondent No.2, the same could not have been taken up for hearing by the Revisional Court.

3. I have heard learned counsel for the petitioner and gone through the paper-book.

4. The zimni orders passed by the First Appellate Court are reproduced hereunder:-

Order dated:- 22.11.2023

“Received by entrustment. It be registered. Heard. Fairly arguable points involved in it. Hence, the same is admitted for hearing with all just exceptions.

Along with the revision petition, an application for staying the proceedings of learned trial Court till final decision of the revision petition has also been filed. Heard. I deem it fit to hear the opposite party also before passing any order on the said application. Let notice of the revision petition be issued to the respondent for 20.12.2023.”

Order dated:-20.12.2023

“Notice issued to respondent not received back. Fresh notice to the respondent be issued for 24.01.2024.”

Order dated:-24.01.2024

“Notice issued to respondent not received back. Fresh notice to the respondent be issued for 14.03.2024.”

5. A perusal of the orders show that revision petition and the said application filed at the instance of petitioner could not be adjudicated upon by the Revisional Court on account of non-service of notice upon respondent. As a matter of fact, the trial is pending before the Court of Judicial Magistrate First Class, Moga itself wherein respondent No.2 is being represented through Sh. B.S. Gill, Advocate and thus, instead of issuing notice to respondent and in order to avoid any delay in disposal of revision petition, respondent No.2/complainant shall be served through Mr. B.S. Gill, Advocate who is representing him

before the trial Court and a request is being made to the Revisional Court, to take necessary steps in this regard.

6. Considering the fact that the trial before the Court concerned is fixed for 16.02.2024 whereas, the revision petition against the impugned order is listed for 14.03.2024 wherein, no adjudication has been made on the stay application so far, the present petition is disposed of with liberty to petitioner to move an appropriate application seeking preponement of date of hearing with further liberty to serve respondent No.2 herein through counsel representing him in the trial Court namely Mr. B.S. Gill, Advocate. It shall be highly appreciated in case the Revisional Court adjudicates upon the stay application at the earliest. Till the adjudication of the said application by the Revisional Court, the trial Court is requested to adjourn the hearing beyond the date fixed by the Revisional Court qua the petitioner only.

12.02.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>