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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10524-2018 (O&M)

Date of Decision:- 16.09.2024

Satish Kumar

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Rajat Malhotra, Advocate
for the petitioner.
(through Video Conferencing)

Mr. Kewal Singh, Addl. A.G. Punjab.

Mr. N.S. Dadwal, Advocate
for respondents No. 2 and 3.

Mr. Nishant Arora, Advocate for
Mr. Gaurav Mohunta, Advocate
for respondent No. 4.

* * * *

AMARJOT BHATTI, J.

1. Petitioner Satish Kumar has filed petition under Section 482 of Cr.P.C. for setting aside order dated 14.12.2017 (Annexure P-1), whereby learned trial Court closed prosecution evidence by order and for setting aside order dated 24.01.2018 (Annexure P-2), whereby application under Section 311 Cr.P.C. for summoning of remaining material witnesses and placing on record material documents was dismissed by learned trial Court, and for setting aside judgment dated 28.02.2018 (Annexure P-3), passed by learned Additional Sessions Judge, Ludhiana, whereby revision filed by petitioner against order dated 24.01.2018 was also dismissed, with prayer



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witnesses and material documents in the interest of justice or any other order or direction which the Court may deem fit and proper under the given facts and circumstances of case.

2. Learned Counsel for petitioner argued that respondents No. 2 to 4 are facing trial in FIR No. 105 dated 29.08.2013 under Section 420, 120-B of IPC, Police Station Division No. 8 (Kailash Chowk), Ludhiana, Annexure P-4. Challan was presented and charge-sheet was framed on 21.11.2014 and case was fixed for prosecution evidence. On 14.12.2017, two of the witnesses present in Court were examined and thereafter evidence of prosecution was closed by order and case was fixed for recording statement of accused under Section 313 of Cr.P.C. Copy of order dated 14.12.2017 is Annexure P-1. Material witnesses were yet to be examined. Even Investigating Officer had to step into the witness box. Therefore, application under Section 311 Cr.P.C. (Annexure P-5) was filed. However, without any justification, said application was also declined vide order dated 24.01.2018 by passing impugned order Annexure P-2. Thereafter, criminal revision filed against said order was declined vide judgment dated 28.02.2018, Annexure P-3. Learned Counsel for petitioner pointed out that said criminal revision was declined as it was observed that criminal revision was not maintainable, since impugned order dated 24.01.2018 was interlocutory order. Thereafter, present petition has been filed. Learned Counsel for petitioner pointed out that Kamaljit Kaur had filed one CRM-M No. 45976 of 2017 (O&M) in which learned Judicial Magistrate 1st Class, Ludhiana was called upon to explain why the trial was being delayed. Copy of order dated 04.12.2017 is Annexure P-6.

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Under these circumstances, learned Judicial Magistrate closed prosecution evidence without considering the fact that other material witnesses were yet to be examined. It is pointed out that no effort was made to procure service of witnesses who were left to be examined. Therefore, impugned order dated 14.12.2017, Annexure P-1 and impugned order on application under Section 311 Cr.P.C. dated 24.01.2018, Annexure P-2 may be set aside and prosecution be granted reasonable opportunity to conclude their evidence.

3. On the other hand, learned Counsel representing State admitted the factual position. Learned Counsel representing respondents No. 2 to 4 raised the issue that accused were facing trial since long. It was the duty of prosecution to produce their witnesses well on time so that their statements could be recorded. Considering this, learned Judicial Magistrate 1st Class, Ludhiana was pleased to close the evidence of prosecution by order and their application filed under Section 311 Cr.P.C. was rightly rejected by said Magistrate by passing detailed order dated 24.01.2018. Petition filed by petitioner is without merits, therefore, same may kindly be dismissed.

4. I have considered the arguments and have gone through the record. In this case, FIR No. 105 dated 29.08.2013 was registered under Section 420, 120-B of IPC, Police Station Division No. 8 (Kailash Chowk), Ludhiana on the complaint of Satish Kumar and respondents No. 2 to 4 namely Kamaljit Kaur, Jagdeep Singh and Kuljeet Singh were facing trial. Charge sheet was framed in the year 2014 and ultimately evidence of prosecution was closed vide impugned order dated 14.12.2017. Aforesaid period clearly indicates that prosecution was granted sufficient time to

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conclude their evidence. Kamaljit Kaur had filed CRM-M-45976-2017, in which vide order dated 04.12.2017, Annexure P-6, comments of learned Judicial Magistrate 1st Class, Ludhiana were called as to why the trial was being delayed. As a result of this order, instead of giving short adjournments to conclude evidence, learned Judicial Magistrate closed the evidence vide order dated 14.12.2017. Learned trial Court was required to pinpoint material witnesses which were required to be examined to prove the charge sheet and thereafter special efforts should have been made to procure service of said witnesses. There is nothing on record to show that learned Judicial Magistrate made any special effort to conclude the trial as per law by summoning relevant, material witnesses. It is not the case that witnesses were summoned or they did not appear deliberately or there was any lapse on the part of serving agency to effect service of witnesses. Infact, trial Court did not take appropriate steps to conclude evidence in a time bound manner.

5. Considering the factual position, impugned order dated 14.12.2017, Annexure P-1 is not justified and application under Section 311 Cr.P.C. was wrongly rejected vide impugned order dated 24.01.2018, Annexure P-2 and same are accordingly set aside. Criminal Revision was dismissed on the ground of maintainability. Consequently, petition filed by petitioner is accepted by giving direction to prosecution as well as trial Court to conclude prosecution evidence by giving effective opportunities within a span of one month, and in order to procure service of witnesses, special messengers be deputed with assistance of agency responsible for procuring service of witnesses.

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6. Petition is accordingly disposed of.
7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

16.09.2024

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(AMARJOT BHATTI)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No