

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

260

CRM-M No.17534 of 2015 (O&M)
Date of Decision: 05.02.2024

SURINDER KUMAR JUNEJA

.....Petitioner(s)

Vs

STATE OF PUNJAB & ANOTHER

....Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: None for the petitioner.

Mr. Gurlal Singh Dhillon, Asstt. A.G., Punjab.

Ms. Puja Chopra, Advocate
for respondent No.2.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing/setting aside the order dated 30.04.2015 (Annexure P-6) passed by the Judicial Magistrate Ist Class, Jalandhar, whereby the petitioner was deprived of grant of one effective opportunity to conclude his entire evidence as afforded by the Addl. District Judge, Jalandhar vide its order dated 16.03.2015.

[2]. In the present case, FIR No.67 dated 18.05.2009 under Sections 406 & 420 IPC, P.S. Division No.1, District Jalandhar came to registered at the instance of the petitioner against respondent No.2, wherein the evidence of the prosecution was closed vide order dated 08.08.2014. The said order was assailed at the instance of the petitioner by way of revision before the Court of Addl. Sessions Judge, Jalandhar, which was adjudicated finally vide order dated 16.03.2015 with grant of one last opportunity in favour of the prosecution to conclude its evidence.

The operative part of the paragraph 9 of the said judgment is reproduced hereunder:-

“9. Therefore, keeping in view my above said discussion, I am of the opinion that the prosecution should be given one last opportunity to conclude its evidence. The prosecution is hereby directed to produce all its evidence on 27.3.2015, if so produced, the defence shall cross-examine them on the same day and no further adjournment for the said purpose shall be given unless the learned trial court finds the valid or compelling reason to do so.”

[3]. On the date fixed i.e. 27.03.2015, no effective proceedings could take place for want of receipt of file from the Revisional Court and accordingly following order was passed:-

“Present: APP for the State.

Accused on bail.

*Original File not received. Let same be awaited till
30.04.2015.*

*(Anuradha) PCS
JMJC/27.03.2015”*

[4]. Thereafter the matter was taken up on 30.04.2015 and rather than granting one effective opportunity to the prosecution to conclude its evidence, the Trial Court concluded that since no evidence was got recorded by the complainant/prosecution on the previous date i.e. on 27.03.2015, therefore, the effective compliance of order dated 16.03.2015 passed by the Addl. Sessions Judge, Jalandhar stood complied with and no further opportunity was required to be afforded to the prosecution.

[5]. I have heard learned counsel for the parties and gone through the paper book.

[6]. From perusal of the record, this Court finds that the approach of the Trial Court while passing the order dated 30.04.2015 was too technical, instead of that, the Trial Court was required to adopt pragmatic approach. Once the Revisional Court vide order dated 16.03.2015 afforded one opportunity to the prosecution to conclude its entire evidence on 27.03.2015 and if no proceeding could take place on the said date, the Trial Court being conscious of the aforesaid was required to afford one effective opportunity to the petitioner on the next date, instead of closing its door.

[7]. Resultantly, the order dated 30.04.2015 passed by the Judicial Magistrate Ist Class, Jalandhar is hereby set aside. Consequently, in terms of order dated 16.03.2015 passed by the Addl. District Judge, Jalandhar, the prosecution/complainant is afforded one effective opportunity to conclude its entire evidence to be fixed specifically by the Trial Court, after due notice to the parties concerned.

[8]. Since no one has appeared on behalf of the petitioner, the Trial Court shall grant one effective opportunity to the complainant/prosecution after serving proper notice upon him or his representatives.

[9]. With the aforesaid observation, this petition is disposed of. Original record be sent back.

February 05, 2024
Atik

(HARKESH MANUJA)
JUDGE

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