

(129A)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13625-2024
Date of Decision: 21.03.2024

DR. SUMEET SOFAT

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Dr. Sumeet Sofat
petitioner-in-person.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Sections 482/483 Cr.P.C. is for quashing of the order of the JMIC, Ludhiana dated 29.11.2022 (Annexure P-1) and the order passed by the DSJ, Ludhiana dated 24.02.2023 (Annexure P-2).

2. The brief facts of the case are that during the course of proceedings in the Trial emanating out of FIR No.283 dated 17.10.2008 under Sections 465, 468, 469, 471, 201, 120-B, Police Station Division No.5, Ludhiana, the petitioner/accused moved an application for striking off the evidence of PW2-Dr. R.N. Singla and PW4-Fazal Ghai on the ground that PW4-Fazal Ghai had been reported dead and PW2-Dr. R.N. Singla had not appeared despite issuance of non-bailable warrants.

3. The Trial Court vide order dated 29.11.2022 held that the application would remain pending and would be decided along with the main

judgment. The copy of the said order dated 29.11.2022 passed by the JMIC, Ludhiana is attached as Annexure P-1 to the present petition.

4. Aggrieved by the said order, the petitioner filed a revision-petition and the Court of Sessions Judge, Ludhiana dismissed the same on the ground that it was not maintainable. The copy of the order dated 24.02.2023 is attached as Annexure P-2 to the present petition.

5. The aforementioned orders are under challenge in the present petition.

6. The petitioner-in-person contends that an application moved by him under Section 311 Cr.P.C. for cross-examination of PW1-Peter Masih, PW2-Dr. R.N. Singla and PW4-Fazal Ghai was allowed on 31.02.2020. While PW1-Peter Masih only appeared for his cross-examination, PW4-Fazal Ghai was reported dead and PW2-Dr. R.N. Singla did not appear despite issuance of non-bailable warrants. Therefore, the evidence of PW2-Dr. R.N. Singla who had not appeared despite issuance of non-bailable warrants for his cross-examination and PW4-Fazal Ghai who had died be struck off of the record.

7. On the other hand, the learned State counsel contends that so far as the plea regarding taking of the record the evidence of PW4-Fazal Ghai was concerned, while recording his examination-in-chief an opportunity of cross-examination had been given to the accused and the witness was partly cross-examined. As regards PW2-Dr. R.N. Singla admittedly he had not appeared before the Court after the application under Section 311 Cr.P.C. was allowed. Therefore, his examination-in-chief could not be read in the absence of his cross-examination. However, the said facts were to be considered at the

time of passing the final judgment and therefore, the Trial Court was right in keeping the application pending to be decided along with the main judgment. As such, the present petition was liable to be dismissed.

8. I have heard the learned counsel for the parties.
9. Admittedly, PW2-Dr. R.N. Singla did not appear for his cross-examination. PW4-Fazal Ghai was partially cross-examined after which he was reported dead. The question of striking off the record the evidence of PW2-Dr. R.N. Singla and PW4-Fazal Ghai would not arise inasmuch as the evidentiary value of their depositions without cross-examination would require consideration at the time when the judgment in the main case is to be pronounced. It was in these circumstances that the application moved by the petitioner had been kept pending to be decided along with the main judgment. Therefore, no fault can be found with the impugned order dated 29.11.2022 (Annexure P-1).
10. In view of the above, the present petition stands dismissed.
11. The Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than two months from the next date fixed before it.

21.03.2024

JITESH

(JASJIT SINGH BEDI)
JUDGE

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