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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14616-2023

Date of Decision:- 10.09.2024

GURMEJ SINGH

....Petitioner

Vs.

STATE OF PUNJAB AND ORS

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. N.P.S. Mann, Advocate for petitioner.

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

Mr. Yajur Sharma, Advocate for respondent Nos.6 to 12.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Gurmej Singh filed petition under Section 482 Cr.P.C. for quashing of order dated 21.02.2023 (Annexure P-14) passed by learned Sub Divisional Judicial Magistrate, Ajnala vide which prosecution evidence was wrongly closed by order without following proper procedure as provided in Code of Criminal Procedure, 1973 to procure the service of Reader of DSP, Ajnala with a prayer that learned trial Court may be directed to record the statement of aforesaid Reader of DSP, Ajnala or any other appropriate directions which the Court may deem fit and proper in the facts and circumstances of the case.

2. Learned counsel for petitioner argued that evidence of prosecution was closed by order by passing impugned order dated



21.02.2023 (Annexure P-14). There was judgment passed by the Coordinate Bench in CRM-M-38858-2018 decided on 22.02.2019 (Annexure P-7) vide which impugned order dated 01.06.2018 passed by learned Judicial Magistrate 1st Class, Ajnala was set aside allowing application under Section 311 Cr.P.C. to summon the Reader of DSP, Sub Division Ajnala to produce and prove the record as detailed therein. Despite the aforesaid directions by the Coordinate Bench, learned trial Court adjourned the matter from time to time but no proper procedure was followed to summon the Reader of DSP Sub Division Ajnala for the production of documents. Copies of relevant interlocutory orders starting from 24.11.2022 onwards are Annexure P-8 to P-13 and ultimately closed the evidence of prosecution by passing impugned order dated 21.02.2023. It is further argued that impugned order is liable to be quashed and the trial Court may be directed to summon the concerned Reader of DSP, Sub Division, Ajnala to produce the record in pursuance of previous order.

3. Learned counsel representing State filed status report confirming the factual position. Learned counsel representing State pointed out that State is ready to abide by any direction passed by this Court.

4. Mr. Yajur Sharma, Advocate filed *vakalatnama* on behalf of respondent Nos.6 to 12 and opposed the petition by alleging that trial in this case is pending since 2015. Number of opportunities were granted to the prosecution to conclude their evidence. Despite this the evidence was not concluded and the trial Court was compelled to close the prosecution evidence by order. Order dated 21.02.2023 passed by learned trial Court does not suffer from illegality or infirmity, therefore, petition preferred by petitioner deserves dismissal.



5. I have considered the arguments and have gone through the record carefully with the able assistance of counsel for petitioner and learned counsel for respondent Nos.6 to 12. In the case in hand factual position is not disputed. As per the impugned order dated 21.02.2023, evidence of the prosecution was closed by order and the case was adjourned for recording statement of accused under Section 313 Cr.P.C. It is matter of record that during the pendency of the case, complainant filed application under Section 311 Cr.P.C. to summon the Reader of Deputy Superintendent of Police, Sub Division Ajnala for producing documents as detailed in the application (Annexure P-5). Said application was dismissed by Judicial Magistrate 1st Class, Ajnala vide order dated 01.06.2018 (Annexure P-6). Said order was challenged in the High Court by filing CRM-M-38858-2018 which was accepted vide order dated 22.02.2019 (Annexure P-7). Thereafter, case was adjourned from time to time to summon the prosecution witnesses. Some of the witnesses were recorded. However, service of Reader of DSP, Sub Division Ajnala could not be procured despite adjourning the matter from time to time. Perusal of zimni orders (Annexures P-8, P-9, P-10 and P-11) indicate that merely summons were issued without mentioning the report received on the said summons. In-case the said witness was avoiding service then the trial Court could have used other means as provided in Cr.P.C. to procure service of witness and in case there was any lapse on the part of Agency for effecting service of the witness, even the appropriate steps could have been taken. Learned trial Court, without making any concrete effort to procure the service of witness just closed the prosecution evidence by order vide order dated 21.02.2023.



6. In light of this, impugned order (Annexure P-14) is not justified and the same is, accordingly, quashed by accepting the present petition with a further direction to the trial Court to procure the service of aforesaid witness by following proper procedure.

7. Petition is, accordingly, disposed of.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly.

10.09.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No