

106

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-643-2024 (O&M)
Date of decision: 02.04.2024

Ritu Raj Bhandari

... Petitioner

Vs.

Rimpy Marwaha and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gourav Goel, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed under Section 401 Cr.P.C. for quashing of the order dated 28.03.2024 passed by the learned Additional Sessions Judge, Ludhiana in case bearing CIS No.SC/369/2017 titled as *State through Ritu Raj Bhandari Vs. Rimpy Marwaha*, whereby the prosecution evidence has been closed by order.
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has shown sufficient cause for his non-appearance, as he was undergoing treatment for heart ailment. Reliance in this regard is placed upon Annexure P-3, which clearly shows that on 27.03.2024, the petitioner visited the hospital and the date before the learned trial Court was fixed on

28.03.2024. As such, his absence cannot be construed as willful and it is only on account of his heart ailment. It is further contended that vide impugned order, evidence of the prosecution has been closed. The learned trial Court has not resorted to any other means to secure presence of the official witnesses. He has referred to various interlocutory orders passed by the concerned jurisdictional Magistrate and submits that only last opportunity was granted to the prosecution to conclude the evidence at their own responsibility, however, neither any bailable or non-bailable warrants were issued to secure presence of the witnesses, therefore, it will cause great prejudice to the prosecution.

3. Notice of motion.

4. On asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of respondent No.6-State and supports the order passed by the learned trial Court.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

6. After perusal of the case file, this Court finds that the trial Court is well equipped to secure presence of the witnesses and without invoking the alternative methods, the prosecution evidence has been closed by Court order. The principles of natural justice are integral part of fair trial under Article 21 of the Constitution of India and any denial of the best available evidence or effective and substantial hearing to the parties in proving their

case, would amount to denial of free and fair trial.

7. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 28.03.2024 is hereby set aside, however, this will be subject to deposit of costs of Rs.10,000/- with the District Legal Services Authority, Ludhiana, for wasting precious time of the Court. The learned trial Court is directed to secure presence of the prosecution witnesses and provide sufficient opportunity to the prosecution to conclude its evidence. No prejudice would be caused to the private respondents, if an opportunity is granted to the prosecution to lead the evidence as the defence would have the opportunity to cross-examine the witnesses.

8. Disposed of in the aforesaid terms.

[HARPREET SINGH BRAR]
JUDGE

02.04.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No