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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-36625-2015

Date of Decision : November 20, 2024

RAKESH KUMAR ARORA**-PETITIONER****V/S****STATE OF HARYANA****-RESPONDENT****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. S.S. Sahu, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. The instant petition cast under Section 482 of the Cr.P.C. embodies prayer for quashing the order dated 11.09.2015 (Annexure P-8), whereby, the learned Additional Sessions Judge concerned has, after setting-aside the orders dated 21.03.2014 and 02.05.2014 passed by the learned Magistrate concerned, proceeded to remand the case to the court of learned Magistrate concerned with a direction to proceed in the matter in accordance with law, providing at least one more opportunity to the revisionist therein to lead evidence.

2. Succinctly stated, a complaint for prosecution of the petitioner, under the Drugs and Cosmetics Act, 1940, was filed by the Drugs Control Officer concerned, before the learned Chief Judicial Magistrate, Fatehabad. Upon inspection of the premises of the petitioner's firm, intoxicant drugs were found stored therein, without maintaining any sale and purchase record

thereof.

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3. Consequent upon filing of the complaint, the petitioner was summoned and during pre-charge evidence, the complainant Rajnish Kumar Dhaniwal, Drugs Control Officer, Hisar, was examined as PW1 (hereinafter referred to as 'PW1') on 24.05.2013, but, his cross-examination was deferred and case was adjourned for 05.07.2013. On 05.07.2013, neither PW1, nor any other witness came present, rather an adjournment request was sent by PW1, whereupon, the case was adjourned for 16.08.2013 for cross-examination of PW1 and remaining evidence of the complainant. Thereafter, on a number of occasions, the case was adjourned on request of PW1. Finally, when neither PW1, despite him becoming afforded a last opportunity, appeared before the learned Magistrate concerned for cross-examination, nor any other evidence of the complainant was present, therefore, the learned Magistrate concerned, through drawing the order dated 21.03.2014, closed the complainant evidence (pre-charge stage) by order of court. Thereafter, after hearing arguments on the point of framing of charge, the learned Magistrate concerned drew the order dated 02.05.2014, thereby discharging the petitioner.

4. The drawing of the respective orders dated 21.03.2014 and 02.05.2014 caused pain to the respondent/complainant and triggered the institution thereagainst of a revision petition before the learned Additional Sessions Judge-I, Fatehabad. Resultantly, the revisional court concerned, vide order dated 11.09.2015, set-aside the orders (supra) and remanded the case to the court of learned Magistrate concerned with a direction to proceed in the matter in accordance with law, providing at least one more opportunity to the revisionist therein to lead evidence. In this way, the

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drawing of the order dated 11.09.2015 has driven the petitioner to this Court to seek setting-aside thereof.

5. The instant petition has been pending before this Court since 2015. The learned State counsel, on instructions imparted to him by the official/officer concerned, has informed this Court that, now three complainant witnesses have already been examined and charges have also been framed against the petitioner on 16.11.2024.

6. This Court has perused the impugned order dated 11.09.2015, however, does not find any illegality or perversity therein. Moreover, although an issue became canvassed by the petitioner's counsel regarding maintainability of the complainant's revision, however, now he fairly concedes that the said issue does not hold any merit.

7. In summa, the instant petition is **dismissed** and the impugned order is upheld.

November 20, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No