



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

107

Criminal Revision No.951 of 2024  
Date of decision: May 10<sup>th</sup>, 2024

Sukhdev Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Vikas Gupta, Advocate  
for the petitioner.

**MANJARI NEHRU KAUL, J.**

Learned counsel for the petitioner is assailing the order dated 20.03.2024 passed by the learned Additional Sessions Judge, Tarn Taran, whereby his application under Section 391 of the Cr.P.C. was dismissed.

2. Learned counsel contends that the prayer made by him in his application under Section 391 of the Cr.P.C. should have been granted because during the trial, the Public Prosecutor, while examining the petitioner as PW-4, mistakenly exhibited his statement recorded at the time of the FIR instead of ensuring his statement was recorded in Court under oath. This led to the erroneous acquittal of the accused-respondents. It has been further argued that the examination-in-chief or the petitioner should have been conducted under oath, and the substance of such an examination should have been provided in writing and also signed by him and his witnesses; evidently, the trial Court disregarded the legal provisions, and the petitioner's statutory right to get his statement recorded in accordance

with law. This negligence on the part of the Public Prosecutor had severely prejudiced his case and it was in the above background, the petitioner (complainant) had sought permission under Section 391 of the Cr.P.C. to re-record his examination-in-chief for a fair decision of the case.

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. It would be necessary to outline the sequence of events leading to the filing of the instant revision petition. The FIR in question was filed on 12.07.2009 by the petitioner, and thereafter, charges were framed against the accused on 27.01.2016. The petitioner-complainant was examined on 22.02.2017, with the prosecution's evidence concluding on 12.09.2017. Thereafter, the learned trial Court delivered its judgment on 19.01.2018. The appellant impugned the judgment passed by the trial Court by filing an appeal on 07.02.2018.

5. Considering the sequence of events, it would be crucial to highlight the significant delay in filing the application under Section 391 of the Cr.P.C. only on 20.10.2023. There is no cogent much less convincing explanation provided by the petitioner for this inordinate delay, especially since there was no change in circumstances between 07.02.2018 and 20.10.2023. Except for vaguely blaming the Public Prosecutor for conducting inadequate examination, nothing has been brought to the notice of this Court to justify as to why the petitioner-complainant chose to keep mum all throughout and woke up from his slumber after such a long delay. Additionally, though a perusal of the order reveals that one of the grounds mentioned by the petitioner for the delay in filing of the application under Section 391 of the

Cr.P.C. was of engaging a new counsel, however, this alone would not justify the delay more so when there is no mention in the said regard in the application under Section 391 of the Cr.P.C.

6.           Attributing the acquittal of the accused solely on account of the alleged faulty examination-in-chief of the complainant would be an overstatement. The trial Court has highlighted material contradictions in the testimonies of the complainant as well as his brother, casting doubt on the version put forth by the complainant. Moreover, the complainant was subjected to an extensive cross-examination, coupled with the fact that the Court below also noted the delay in the registration of the FIR and the existence of another criminal case against him.

7.           As per various judicial pronouncements, the provisions of Section 391 of the Cr.P.C. should be invoked only if the evidence could not be presented during trial despite due diligence or if new facts emerge later in the appeal. In the present case, the complainant had ample opportunity to address concerns during the course of the trial itself but failed to do so. The application under Section 391 of the Cr.P.C., which has been filed after an unexplained and inordinate delay of over five years, does not present any exceptional grounds for its consideration.

8.           As a sequence to the above, this Court does not find any illegality or perversity in the impugned order.

9.           The instant petition, therefore, stands dismissed.

**May 10<sup>th</sup>, 2024**  
*Puneet*

**(MANJARI NEHRU KAUL)**  
**JUDGE**

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