

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

CRR-2120-2019 (O&M)

Date of decision: 18.03.2024

Major Amit Kumar Mishra

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. N.R. Dahia, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. D.S. Matya, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioner-husband has approached this Court challenging the order dated 29.07.2019, whereby the application filed by the petitioner seeking exemption from his personal appearance was declined by the learned trial Court and bail granted to the petitioner was cancelled; and non-bailable warrants were ordered to be issued against him.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner being the husband of complainant/respondent No. 2, is facing trial in case FIR No. 314 dated 02.07.2015 (Annexure P-1) registered under Sections 406, 498-A and 323 IPC at Police Station Sadar Thanesar, District Kurukshetra. It is submitted that the petitioner had been regularly appearing before the learned trial Court on each and every date of hearing.

Subsequently, the matter was compromised between the parties and the petitioner had filed a petition bearing CRM-M-17406-2019, under Section 482 Cr.P.C., seeking quashing of the aforesaid FIR on the basis of compromise, wherein notice of motion was issued by a co-ordinate Bench of this Court vide order dated 22.04.2019 (Annexure P-2). Learned counsel submits that the petitioner is serving in the Indian Army and was posted in some sensitive area in Jammu and Kashmir and on the date fixed before the trial Court i.e. 29.07.2019, he could not appear before the learned trial Court, due to land slide and sensitive situation in Jammu and Kashmir. Accordingly, the petitioner had moved an application dated 29.07.2019 (Annexure P-3) through his counsel seeking personal appearance before the learned trial Court. It is also submitted that in para 4 of the application dated 29.07.2019 (Annexure P-3) filed by the petitioner, it has been mentioned that 'the accused/petitioner herein has no objection, if any, evidence is recorded in the absence of the accused and in the presence of his counsel'. However, the learned trial Court vide impugned order dated 29.07.2019, without considering the abovesaid facts not only dismissed the said application of the petitioner, but had also cancelled the bail granted to the petitioner.

Heard.

From the facts and circumstances of the case, it is amply clear that the petitioner was regularly appearing before the learned trial Court on each and every date. He is serving in the Indian Army and at that time he was posted in some sensitive area in Jammu and Kashmir. The petitioner had failed to appear before the learned trial Court only on one date i.e. 29.07.2019, on account of land slide and sensitive situation in

Jammu and Kashmir. He had also moved an application (Annexure P-3) seeking exemption for personal appearance before the trial Court only for the said date which was dismissed by the learned trial Court vide order impugned herein.

On instructions, learned counsel for the State submits that now, the trial is at the fag end, inasmuch as, at present all the prosecution witnesses stand examined.

In view of the above, the present revision petition is **allowed** and the impugned order dated 29.07.2019, is set aside.

Nothing said here-in-above shall be construed as an expression of opinion on the merits of the case.

18.03.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No