

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-37974-2024
Date of Decision: 07.08.2024

JASWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vijay Pal, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J

1. The petitioner by this petition seeks setting aside the impugned order dated 04.07.2024,(Annexures P-29 & P-30) whereby application filed by the petitioner to seek issuance of non-bailable warrants to the witnesses has been dismissed by the Court of learned Judicial Magistrate Ist Class, Ludhiana (for short – ‘JMIC’).

2. It is contended by the learned counsel for the petitioner that the impugned order is prima facie illegal and erroneous because challan was presented on 24.01.2012 by citing as many as 27 witnesses therein, all being material and important witnesses for the adjudication of the case. Thereafter, petitioner filed application under Section 311 for summoning of 12 witnesses,

whose testimony were essential and important and even the petitioner-complainant was not examined. However, the said application was dismissed vide order dated 09.01.2019, Annexure P-6 whereupon the petitioner filed Revision Petition being CRM-M-41802 of 2021 which was disposed of by this Hon'ble Court vide judgment dated 12.12.2023, Annexure P-8. Witnesses were summoned vide dasti notices, vide order dated 20.12.2023 passed by the learned JMIC. The case was repeatedly adjourned for but neither examination of witnesses was concluded nor the accused-respondent filed reply to the application filed by the petitioner to seek non-bailable warrants of the witnesses who were summoned by the trial Court but they did not appear before the Court and instead the case was repeatedly adjourned by the Hon'ble Court. However, on 04.07.2024, application filed by the petitioner to seek issuance of bailable warrants was dismissed on the ground that only one opportunity was granted to the complainant to produce evidence.

3. He further contends that the order dated 04.07.2024 dismissing the application of the petitioner to seek non-bailable warrants of the witnesses is bad in law as the prayer to seek non-bailable warrants of the witnesses was in continuation of the opportunity granted by this Hon'ble Court. As such, the order dated 04.07.2024, Annexure P-29, is liable to be set aside.

4. Notice of motion.

5. On the asking of the Court, Mr. Rajiv Verma, Deputy Advocate General, Punjab, accepts notice on behalf of the State and submits that the orders passed by the learned trial Court is reasoned order because the petitioner/complainant had failed to produce any evidence for which he was granted one opportunity by this Hon'ble Court, vide order dated 12.12.2023, as

such, the learned trial Court is fully justified to pass the order, Annexure P-29, and no fault can be found in the order.

6. Heard learned counsel for the respective parties and case file perused.

7. The instant case pertains to grievance of the petitioner wherein his application to issue non bailable warrants to the witnesses stands dismissed. Perusal of the case file reveals that vide order dated 12.12.2023, this Court had granted one last opportunity to the petitioner to appear as a witness and produce on record any other evidence support of his complaint wherein the said opportunity was available to the petitioner subject to payment of cost of Rs.20,000/- to be deposited by the petitioner with ***The Institute for the Blind (Run by Society for the Care of the Blind), Sector 26, Chandigarh.*** However, there is no averment in the entire petition to the effect as to whether the cost was paid or not by the petitioner nor petitioner has placed any receipt on record nor does the order dated 04.07.2024 nor does the zimni orders from Annexure P-11 to P-20 indicate whether the cost was paid or not.

8. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. The judicial process cannot become an instrument of oppression or abuse or means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice.

9. In the instant petition, it is the *mala fide* intention of the petitioner to seek non bailable warrants against all the witness wherein it has come across this court that PW1 i.e Jaswinder Singh was examined completely on

19.03.2024, PW Dr. Inderjeet Singh was examined completely on 15.03.2024,
PW Upkar Singh was examined completely on 20.03.2024.

10. In view of the above situation, this Court does not deem it appropriate to interfere with the order passed by the learned Court below and the order, Annexure P-29, is hereby upheld and the present petition is ordered to be dismissed for want of any merit in the present petition.

07.08.2024
Poonam Negi/Anuradha

(SANDEEP MOUDGIL)
JUDGE

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