



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57815-2024

Date of Decision:- 21.11.2024

M/S BANSAL AND COMPANY THROUGH ITS PROP AND ANR
....Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER
...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Tarun Singla, Advocate for the petitioners.
Mr. Kewal Singh, Addl. A.G. Punjab.

AMARJOT BHATTI, J.

1. Petitioners filed petition under Section 482 Cr.P.C. for quashing of order dated 21.10.2024 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Phul, District Bathinda in NACT-400-2024 titled as M/s Parkash Chand Rajesh Kumar Vs. M/s Bansal & Company whereby cross-examination of respondent No.2/complainant is treated as 'nil' by giving an opportunity to petitioner to cross-examine said respondent No.2/complainant and said order is illegal, arbitrary and is liable to be set aside.

2. It is pointed out that grandmother of petitioner Smt. Savitri Devi expired on 12.10.2024 and *shok sabha* fixed for 22.10.2024. On the date fixed i.e. 21.10.2024, he could not appear in the Court and also

requested his counsel to file application seeking exemption. However, application for exemption of Harwinder Kumar was allowed. Cross-examination of complainant was closed by treating as 'nil'. It is argued that there was no willful intentional absence on his part. Due to the urgency in the family he could not appear and even his counsel did not turn up to cross-examine complainant. It is prayed that one opportunity may be granted to cross-examine the complainant by accepting present petition.

3. Learned counsel for petitioner has annexed all relevant zimni orders for appreciation of the facts of the present case. No purpose would be served by issuing notice to complainant/respondent No.2.

4. I have gone through the record carefully. Perusal of zimni orders indicate that complainant as CW1 was examined-in-chief on 01.12.2023 and thereafter matter was put in National Lok Adalat for compromise. However, compromise could not materialise and the case was again taken up on 15.05.2024 for cross-examination of CW1. On the request of counsel for accused/petitioner, another date was given subject to payment of costs and it was adjourned to 05.07.2024. On 05.07.2024 accused was absented and notice was issued to him for 23.08.2024. On request of learned counsel for the complainant, case was again adjourned to 21.10.2024. On this date, present petitioner filed application seeking exemption which was allowed. Counsel for accused again requested for adjournment to cross-examine CW1. Cost of Rs.300/- was not paid and ultimately by passing impugned order dated 21.10.2024 cross-examination of complainant was treated as 'nil'. Now counsel for petitioner has placed on record downloaded copy of *shok* sabha fixed for 22.10.2024 (Annexure P-3) which further shows that late Smt. Savitri Devi had expired on

interest of justice, if one effective opportunity is granted to the petitioner to cross-examine witness. Respondent/complainant can be compensated by imposing costs. Therefore, taking lenient view present petition is allowed and the impugned order dated 21.10.2024 (Annexure P-4) is quashed and learned trial Court is directed to give one effective opportunity to the petitioner/accused to cross-examine the complainant subject to payment of costs Rs.10,000/-.

5. Petition is, accordingly, disposed of.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

21.11.2024

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Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No