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CRR-4290-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 13th OF SEPTEMBER, 2024CRIMINAL REVISION No. 4290 of 2024*JUGAL KISHORE AGRAWAL AND OTHERS**Versus**MAHENDRA DHOOT*

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Appearance:

Shri Vivek Pandey - Advocate for the applicants.
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ORDER

1. This criminal revision under Section 397 & 401 r/w Section 482 of Cr.P.C. has been filed against the order dated 23.07.2024 passed by the Additional Sessions Judge, Indore in ST No.753/2011.

2. By the aforesaid order, the trial Court has closed the right of the applicants to lead defence evidence. It is submitted by counsel for the applicants that a civil dispute is already going on and in fact it is a case of boundary dispute. In case if the applicants are not granted further opportunity to lead evidence, then they would suffer irreparable loss.

3. Considered the submissions made by the counsel for the applicants.

4. From the impugned order, it is clear that the complainant closed his evidence on 11.8.2023. Thereafter, on account of absence of applicants on 12.8.2023, 16.8.2023, 17.8.2023, 22.8.2023, 28.8.2023 and 5.9.2023 the statements of the accused could not be recorded under Section 313 of Cr.P.C. Later on statements of the accused were recorded on 27.9.2023 and



accordingly they prayed for time to lead defence evidence. Thereafter, on 4.10.2023, 10.10.2023, 16.10.2023, 26.10.2023, 1.11.2023, 6.11.2023, 7.11.2023, 20.11.2023, 24.11.2023, 11.12.2023, 19.12.2023, 23.12.2023, 11.1.2024, 4.1.2024, 24.1.2024, 2.2.2024, 13.2.2024, 20.2.2024, 4.3.2024, 15.3.2024, 22.3.2024, 8.4.2024, 22.4.2024, 7.5.2024, 17.5.2024, 22.5.2024, 4.6.2024, 26.6.2024 and 12.7.2024, in all 29 opportunities were granted to applicants to lead defence evidence. Ultimately on 23.7.2024 the applicants examined Rishi Rathore and prayed for further time to lead defence evidence. Since multiple opportunities were already granted and the trial is pending for last more than 10 years, the Trial Court refused to grant further adjournment and closed the right of the applicants. Counsel for the applicants could not justify as to why the applicants did not examine any witness in their defence, in spite of the fact that on 29 occasions they were granted time. Under these circumstances, this Court is of considered opinion that the Trial Court did not commit any mistake by closing the right of the applicants to lead defence evidence.

5. Although, counsel for the applicants tried to submit that closure of their right may cause irreparable loss to them but for this heart burning situation, only the applicants are responsible.

6. The applicants have also prayed that ST No. 753/2011 and ST No. 258/2013 be clubbed together in the interest of justice. The said prayer cannot be accepted because ST No. 753/2011 has already reached to the stage of final arguments and the evidence led in ST No. 258/2013 cannot be read with ST No. 753/2011.



7. Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that no case is made out warranting interference. The application fails and is hereby **dismissed**.

Certified copy as per rules.

(G. S. AHLUWALIA)
JUDGE

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