

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24236-2015

Date of decision: 27.07.2015

Jatinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Malkeet Singh, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks quashing of the order dated 04.06.2015 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate ('SDJM' for short), Phillaur, whereby petitioner-accused was directed to give his handwriting and specimen signatures, enabling the prosecuting agency to get the same compared from the Forensic Science Laboratory.

Learned counsel for the petitioner submits that the impugned order passed by the learned SDJM, Phillaur is an order without jurisdiction. In support of his contention, learned counsel for the petitioner places reliance on the judgment of Kerala High Court in **Radhakrishnan Vs. Saju**

Thuruthikunnel, 2014 (1) RCR (CrI.) 796. He further submits that since the petitioner had already given his handwriting and signatures at an earlier point of time, there was no justification for the learned SDJM to pass the impugned order. He concluded by submitting that in fact prosecution want to fill a serious lacuna in its case for which it was not entitled. He prays for setting aside the impugned order, by allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the peculiar facts and circumstances noticed hereinabove, no interference is warranted at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., for the following more than one reasons.

A bare reading of the impugned order would show that the learned SDJM has considered each and every relevant aspect of the matter, before passing the impugned order, which is based on a factually correct and legally justified approach. Admittedly, trial is going on. During the course of trial, the prosecution has every right to move such an application. If the contention raised by learned counsel for the petitioner is accepted that the petitioner had already given such specimen handwriting and signatures, there should not have been any objection on the part of the petitioner, at this stage as well. In the present case, the learned trial Court has not exceeded its jurisdiction, while passing the impugned order. Having said that, this Court feels no hesitation to conclude that the impugned order deserves to be upheld.

Coming to the judgment in **Radhakrishnan's** case (supra) relied

upon by learned counsel for the petitioner, there is no dispute about the law laid down therein. However, on perusal of the cited judgment, the same has not been found of any help to the petitioner, it being distinguishable on facts. In the cited judgment, the case was still at the inquiry stage and the learned Magistrate intervened without any jurisdiction, whereas in the present case trial is already going on and the learned Court had the jurisdiction to pass the order.

Further, it is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make a world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

If the contention raised by learned counsel for the petitioner is accepted, the very object of amendment adding Section 311-A Cr.P.C. would stand defeated. Further, no prejudice is likely to be caused to the petitioner. Under these circumstances, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or jurisdictional error apparent on the record of the case, in the impugned order passed by the learned trial Court so as to convince this Court to interfere, while exercising its inherent powers under Section 482 Cr.P.C. Although the powers of this Court under Section 482 Cr.P.C. are wide enough, yet it is equally true that the inherent powers are

to be exercised sparingly and with circumspection. Present one has not been found to be a fit case for exercising the inherent powers under Section 482 Cr.P.C. at the hands of this Court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

27.07.2015
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