

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-5010 of 2014

Date of Decision: September 29, 2015

Parash Ram

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Gaurav Gupta, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. the complainant petitioner-Parash Ram has sought to seek quashment of orders dated 13.01.2014 Annexure P/5 passed by learned Judicial Magistrate 1st Class, Sirsa dismissing the application of the State under Section 311 Cr.P.C. for examination of the signatures of one of the accused Kamla on the muster roll which is subject matter of allegations as well as admitted signatures.

Heard, learned counsel for the parties and perused the records of the case. At the very onset, counsel for the contesting side admits that a criminal revision petition was preferred by the accused before the learned Additional Sessions Judge, Sirsa which was allowed vide orders dated 06.04.2013, whereby, accused-Kamla has been granted liberty to get her signatures on records compared with her

standard signatures on the charge sheet and her statement under Section 313 Cr.P.C from handwriting expert and it is to rebut this evidence which has been brought about by the accused through a private handwriting expert the State has sought examination of such thumb impression/signatures of accused from FSL, Madhuban.

It needs to be reiterated here that the Courts to do substantial justice must act fairly and impartially and as has been argued by the petitioner's counsel since accused has been given the right by the Court to bring in her defence that the alleged documents around which the entire controversy revolves does not bears her signatures/thumb impression and obviously as a sequel to it, it is expected that the other side i.e. the prosecution in the present case must also be afforded equal opportunity to controvert this evidence if necessity so arises and denying such a legitimate right would certainly result in circumvention of law which would not be in the spirit of dispensation of justice. Moreover, authenticity of this opinion by a State based expert would certainly be on a higher pedestal and would rather assist the Court in coming to a judicious appreciation of the matter in question. As the impugned order reveals that on the premise that prosecution has availed of fifteen adjournments and, thereafter, closed its evidence, it would not be in the fitness of things to allow such a prayer and rather though the trial Court admits provisions under Section 311 Cr.P.C. provides discretionary powers to the Courts for summoning, recalling or examining such witnesses but on the ground that such a report is already available on the records has declined this prayer. Since fresh evidence has been allowed to the defence it is necessitated that prosecution side also needs to be given an opportunity to rebut if anything fresh has come on the basis of this report of private expert in view of the contradictory reports of the two

experts such a step certainly is necessitated else the Court may feel impediment in interpreting the vital evidence which goes to the very roots of the allegations of the prosecution. Especially, in such serious allegations, where there has been alleged fraud in the Haryana Gramin Rozgaar Guarantee Scheme by the officials who were supposed to man this scheme and the accused are alleged to be the participants who have put forged thumb impressions/signatures of the complainant and his wife Ram Piari to facilitate embezzlement of the public funds. The Courts need to circumspect the enormity of the allegations else the dispensation of justice would fail to take a constructive approach.

In view of the totality of what has been detailed and discussed above the impugned order certainly deserves to be set aside by way of acceptance of the instant petition.

(FATEH DEEP SINGH)
JUDGE

September 29, 2015

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