

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-7515 of 2015
Date of decision: 9.4.2015

Barinder Kumar Bansal @ Billa ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. K.S. Chahal, Advocate for the petitioner.

Rajan Gupta, J.

This is a petition for quashing order dated 18.2.2015, passed by Special Court, S.A.S. Nagar, Mohali, whereby application of the petitioner for recalling PW ASI Charan Singh for taking his voice sample, has been rejected.

Learned counsel for the petitioner has assailed the order. According to him, court has erroneously rejected the application under section 311 Cr.P.C. for recalling the investigating officer. According to him, a conversation of investigating officer with mother of the accused was recorded, which is relevant for decision of the case. Thus, impugned order needs to be set-aside.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, accused is facing trial being found in conscious possession of 13 kilograms of opium. During trial, nine witnesses were

examined by the prosecution and five by the defence. Statement of accused under section 313 Cr.P.C. was recorded on 23.12.2014. As the trial was nearing its culmination, petitioner moved instant application stating that SI Charan Singh was having illicit relations with Rama Rani mother of the accused. As they were seen in compromising position, investigating officer falsely implicated the accused in this case. A CD containing conversation in this regard was available, however, same could be proved if SI Charan Singh was recalled for taking his voice sample. Trial court rejected the plea on the ground that SI Charan Singh had already deposed as PW2 and was never confronted with alleged conversation. Moreover, it was not clear how and when the conversation in CD was recorded. I find no infirmity with the order. It is apparent that trial is nearing its culmination. It appears, application under section 311 Cr.P.C. has been moved by the petitioner only to delay the trial. In the application neither the date of recording of conversation of CD nor the manner thereof has been stated. Trial court has, thus, rightly rejected the application. There is no ground to interfere in inherent jurisdiction of this court.

Dismissed.

(RAJAN GUPTA)
JUDGE

9.4.2015
'Rajpal'