

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

CRR No.1028 of 2015(O&M)

Date of Decision: 23.03.2015

Sabar Ali

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Aman Bansal, Advocate
for the petitioner.

SNEH PRASHAR, J.

1. This revision petition was preferred assailing the order dated 13.03.2015 passed by Learned Additional Sessions Judge, Panchkula, whereby the application under Section 91 of the Criminal Procedure Code (for short 'the Code') filed by the petitioner in case FIR No.119 dated 05.06.2014 under Section 376 of the Indian Penal Code read with Section 6 of POCSO Act registered at Police Station Pinjore, was dismissed.

2. The petitioner is facing trial in the criminal case, particulars of which have been mentioned above, on the allegation of having repeatedly raped a minor girl and she on medical check up was found to be carrying pregnancy of 6-7 months. In its evidence, the prosecution had relied upon DNA test dated 16.09.2014. The petitioner moved an application under Section 91 of the Code seeking direction to the prosecution to tender record containing complete DNA report including the electro-foreto-gram genrated on DNA sequencing machine (Zero

Typing) so that the exact and complete situation be brought on record.

The application was contested by the prosecution and the complainant. Considering the rival submissions the application was dismissed by learned trial Court.

3. Aggrieved by the order dated 13.03.2015 the petitioner had preferred the instant revision petition.

4. There are no two thoughts on the issue that the report of chemical examiner is *per se* admissible in evidence.

Learned counsel for the petitioner argued that the DNA report tendered in evidence by the prosecution is a material document for proper and complete adjudication of the case. The report produced is incomplete as it only speaks of the result of examination and the conclusion drawn. Without stating the electro-foreto-gram generated on DNA sequencing machine (Zero Typing) the report does not give a complete picture of the material on the basis of which the conclusion had been drawn. Learned counsel asserted that no prejudice shall be caused to the complainant if complete report is called for.

5. Admittedly, report given by a Government Scientific Expert i.e., chemical examiner is admissible in evidence under Section 293 of the Code. The report of chemical examiner even if not exhibited, is *per se* admissible in evidence. In other words the opinion expressed therein by the Scientific Expert after chemical analysis is *per se* admissible. Considering the submissions of the petitioner the findings of learned trial Court are as under:

In State of Punjab v/s Nachattar Singh, 1982 CrLJ 1197 (P&H) (DB) it was observed that the use of the word 'document' in section 293 of the Code can lead to an inference that not only the opinion of the Chemical Examiner but all that is stated in the report becomes admissible without formal proof. In nut-shell, DNA report [Ex.PE] as well as opinion expressed therein by the Scientific Expert is per se admissible and therefor, the accused-applicant has got no right to ask for production of electro-forto-gram generated on DNA sequencing machine. Without commenting of the merits of the case, the application is dismissed being bereft of any merit.

6. Indeed, it has been held in **Vishakha Agro Chemicals (P) Ltd. V. Fertiliser Inspector-cum-Assistant Director of Argiculture (Regular), (1977) 2 Crimes 648 (AP)** that the Court has to accept documents issued by any of the six officers who are mentioned in Section 293 as valid evidence without examining the author thereof. It being so there appears no reason to ask the scientific expert to produce the detailed report including the electro-forto-gram generated on DNA sequencing machine (Zero Typing).

Learned counsel for the petitioner could not demonstrate any error of law or perversity committed by learned trial Court in passing the impugned order.

7. Thus, there being no ground warranting intervention in the order, the revision petition is hereby dismissed.

March 23, 2015
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(SNEH PRASHAR)
JUDGE