

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

**1. CRR No. 463 of 2015 (O&M)
Date of decision: March 25, 2015**

Sant Gurmeet Ram Rahim Singh

.... Petitioner

Versus

Central Bureau of Investigation

.... Respondent

2. CRR No. 457 of 2015 (O&M)

Sant Gurmeet Ram Rahim Singh

.... Petitioner

Versus

Central Bureau of Investigation

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Teevar Sharma Dumerkha, Advocate
for the petitioner(s).

Mr. S.S. Sandhu, Standing Counsel
for respondent-CBI.

Jaspal Singh, J.

This order shall dispose of CRR 463 of 2015 and CRR No. 457 of 2015 both captioned as Sant Gurmeet Ram Rahim Singh vs. CBI.

2. CRR No. 463 of 2015 has been filed for quashing the relevant part of impugned order dated February 04, 2015 as mentioned below:

“As far as relevancy of examination of hand-writing expert is concerned, the specimen signature of prosecutrix were taken in court and same are available on court file. Consequently, if the accused wants to get her hand-writing or signature

compared from the disputed hand-writing on letter, accused can get the same compared by engaging an expert. Therefore, he is at liberty to examine hand-writing expert of his own choice who could give report in this regard.”

3 Further prayer that learned trial Court may be directed to decide the application dated November 29, 2014, as per law by passing a speaking order or even without deciding the said application (Annexure P-13), the trial Court may please be directed to send the disputed writings/documents and specimen of handwriting & signatures of the prosecutrix PW-5 to FSL Madhuban or CFSL, CBI, New Delhi.

4. CRR No. 457 of 2015 has been filed for quashing of impugned order dated February 04, 2015 passed by Special Judge (CBI) Haryana at Panchkula whereby the application dated January 03, 2015 of the petitioner to examine 17 defence witnesses out of 24 defence witnesses was declined, being illegal, perverse, and without the proper application of judicial mind, in the interest of justice.

5. In response to notice of motion, Mr. S.S. Sandhu, Standing Counsel for CBI appeared and represented the respondent.

6. Shortly put, allegations against present petitioner are that he sexually abused, exploited various girls/sadhvis who are residing in the hostel in the premises of Dera Sacha Sauda, Sirsa. A case bearing FIR No. RC5(S)/2002/SIU-XV/CHG dated December 12, 2002 was registered on the basis of directions issued by this Court vide order dated September 24, 2002 in CRM No. M-26994 of 2002. After examination of prosecution witnesses/evidence, statement of petitioner was recorded under Section 313

C.P.C. and thereafter, the case was posted for defence witness. At that

juncture, petitioner furnished a list of 98 defence witnesses and one DW Balwinder Singh was examined and thereafter, the Court deferred the hearing in this case to ascertain if the list of witnesses filed by the petitioner is vexatious or has been filed to delay the proceedings. After examining the list of witnesses and hearing the parties, following order was passed by learned trial Court on March 01, 2014:

“After considering the relevant facts of the present case and the list of witnesses submitted by the accused I am of the considered opinion that in the interest of justice initially some of the defence witnesses are required to be summoned and examined by the court. After examination of the record carefully I have to a conclusion that in my opinion examination of witnesses shown in serial No. 1, 4, 6, 7, 26, 27, 30, 31, 32, 33, 34, 42, 43, 44, 62, 63, 69, 94, 95, 96, 97 and 98 does not appears to be vexatious and delaying tactics on part of the defence counsel. As far as rest of witnesses are concerned when aforesaid witnesses are called and examined by the defence the picture will be more clear to the effect that the summoning of rest of the witnesses is required or not and the name of the aforesaid left witnesses as given by the defence is vexatious, in order to cause delay to the trial or to defeat the ends of justice. In these circumstances, the witnesses whose serial number is given in this order be summoned initially as defence witnesses. Now the case is adjourned to 22.03.2014 for defence evidence.”

7. Subsequently, petitioner supplied the list of 98 witnesses to be examined in defence but vide order dated November 15, 2014, learned trial Court curtailed the number of witnesses to 29 only. Aggrieved, against the said order, petitioner preferred a criminal revision before this Court challenging the order dated November 15, 2014. The list was reduced to 24

defence witnesses. However, vide subsequent order dated December 17,

2014 passed by this Court, orders dated November 1, November 15, November 29 and December 6, 2014 passed by learned trial Court were set aside and this Court further directed the petitioner to furnish list of 24 witnesses before learned trial Court from the list already supplied to show their relevancy. At the same time, learned trial Court was also directed to examine the relevancy of those witnesses keeping in view of offences complained of and further that in case the Court comes to the conclusion that some of the witnesses are not necessary to be examined, then the defence version be heard and necessary order be passed after hearing the accused party.

8. Accordingly, petitioner submitted the detailed relevancy of 24 witnesses in compliance of order dated December 17, 2014. However, after hearing learned counsel for the petitioner as well as learned counsel representing CBI and appraisal of reply, learned trial Court allowed only five defence witnesses to be examined out of 24 witnesses and rejected the list of remaining defence witnesses vide impugned order dated February 04, 2015 and that too, without finally disposing the application dated November 29, 2014.

9. The contention of learned counsel for the petitioner is that impugned order dated February 04, 2015 is illegal, null and void and against the principles of natural justice. Petitioner-accused has right to defend himself and it is his fundamental right as enshrined under Article 21 of Constitution of India. He cannot be convicted without an opportunity of being given to him in defence as fair trial includes fair opportunity to produce the evidence in defence to prove his innocence. Even otherwise, adducing evidence in support of defence is a valuable right and denial of such right

means denial of fair trial. Learned counsel for the petitioner has also drawn the attention of this Court towards application in which the relevancy of witnesses to be examined in defence has been highlighted as well as impugned order dated February 04, 2015.

10. It has further been stressed that curtailing the right of petitioner to lead his defence results into causing a serious prejudice to him and as such impugned order declining the examination of defence witnesses or curtailing the number of defence witnesses is unjustified. Accordingly, impugned order is not sustainable in the eyes of law and deserves to be set aside.

11. While challenging the part of impugned order dated February 04, 2015, it has been contended by learned counsel for the petitioner that an application dated November 29, 2014 was moved by petitioner before learned trial Court with a prayer that specimen signatures and handwriting of prosecutrix (PW-5) obtained in the Court be sent for examination to FSL or to CFSL, CBI, New Delhi has not been dealt with and disposed of by learned trial Court. Though, while dealing with relevancy of examination of handwriting expert, it was observed in para 20 of impugned order that in case petitioner-accused intends to get handwriting or signature of PW-5 compared with her disputed handwriting on letter, petitioner-accused can get the same compared by engaging an expert of his own choice, who could give report in this regard. Directing the petitioner-accused to get the specimen signature or handwriting of PW-5 with her disputed handwriting by an expert of his own choice is also likely to cause prejudice to the petitioner, as an objection would be raised at a subsequent stage that an expert has been examined of his own choice of petitioner and to overcome that situation, application dated November 29, 2014 was moved, which remains undecided till today.

12. While concluding his arguments, it has submitted by learned counsel for the petitioner that impugned order dated February 04, 2015 be set aside and petitioner be allowed to examine all the witnesses mentioned in the list, who still remain to be examined and further to direct the respondent to send specimen signature and handwriting of prosecutrix PW-5 for comparison thereof, with her disputed handwriting on letter Ex. DW.22/1, from FSL, Madhuban or CFSL, CBI, New Delhi.

13. These arguments have been controverted by learned counsel for CBI, who has supported the impugned order dated February 04, 2015 and submitted that the same is perfectly in accordance with law. List of defence witnesses has rightly been restricted, as there was no relevancy for examination of those witnesses coupled with the fact that list containing large number of persons to be examined was submitted with a mala fide intention to delay the disposal of trial.

14. As far as application dated November 29, 2014 is concerned, the same is otherwise not maintainable as it was filed by the petitioner with an ulterior motive to delay the disposal of trial. In fact, an application dated May 09, 2009, was moved by the petitioner with a prayer that to know the truth about her handwriting and signature, prosecutrix PW-5 be directed to give her specimen signature and handwriting for comparison of her admitted specimen signatures and handwriting from FSL or from any other handwriting expert. That application was disposed of by learned trial Court vide order dated April 17, 2010 whereby, prosecutrix PW-5 was directed to give her specimen signature and handwriting and at that time, no request was made that her signature and handwriting be got compared

from FSL, Madhuban or CFSL, CBI, New Delhi. Ultimately, specimen

signature were actually obtained on July 17, 2013. After expiry of more than one year, another application dated November 29, 2014 was moved at the fag end of trial, which stood disposed of vide impugned order dated February 04, 2015. Moreover, discretion was given to learned trial Court to decide the relevancy of witnesses, which has been judiciously exercised by learned trial Court. So, from any of the angles, no interference of this Court is justified. Accordingly, he prayed for dismissal of both the revision petitions. .

15. Having heard learned counsel for the parties at length and analyzing the impugned order as well as other documents available on file, this Court is of the considered view that as far as impugned order dated February 04, 2015 pertaining to reduction in the list of defence witnesses on account of non-relevancy is concerned, the same is legal and factually justified and requires no interference by this Court. The discretion was given by this Court to learned trial Court to decide the relevancy of each and every witness cited in the list of witnesses to be examined in defence and the same has been exercised in a judicious manner and it cannot be said that any prejudice has been caused or is going to be caused to the petitioner.

16. As far as the sending of specimen signature and handwriting of one of prosecutrix PW-5 to FSL, Madhuban or CFSL, CBI, New Delhi is concerned, undoubtedly, earlier application was moved on May 09, 2009 requesting for obtaining of specimen signature or handwriting of PW-5 for comparison with her disputed handwriting appearing on the letter Ex.DW22/1, so that the same may be compared and examined from handwriting expert. Accordingly, specimen signature and handwriting of PW-5 were obtained in Court on July 17, 2013. The mere fact that an application was moved by the petitioner after an expiry of one year of obtaining above-referred specimen

signature and handwriting, it does not mean that petitioner stands debarred from moving any other application for getting the disputed handwriting compared with disputed handwriting or specimen signature of PW-5.

17. A perusal of file transpires that no specific order has been passed while dealing with application dated November 29, 2014. Though, there is a reference of previous application dated May 09, 2005 in the impugned order whereby, petitioner has been given an opportunity to get the specimen signature and handwriting of prosecutrix compared with disputed handwriting on letter, Ex.DW22/1, by engaging an expert of his own choice.

18 In the light of what has been discussed above, both the revision petitions are disposed of with direction to learned trial Court to dispose of application dated November 29, 2014, after hearing the parties before proceeding further to decide trial finally and other relief(s) prayed for or claimed through these revision petitions stand declined.

March 25, 2015
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(JASPAL SINGH)
JUDGE