

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

CRM-M-18867 of 2016

Date of Decision: August 17, 2016

Narinder Kumar Gupta

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Mohit Garg, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. prayer by the petitioner-accused Narinder Kumar Gupta is by way of quashment of orders dated 05.01.2016 (Annexure P/1) and dated 17.3.2016 (Annexure P/2) whereby, application of the petitioner earlier moved under Section 91 Cr.P.C. was dismissed.

Upon hearing learned counsel for the petitioner and perusing the records of the case the facts are that a case by way of an FIR No.95 dated 6.5.2009 was got registered against the petitioner Narinder Kumar Gupta on the complaint of one Rajinder Singh Pathania and on completion of investigations challan was presented and charges were framed against the accused. It was during the course of prosecution evidence when cross-examination of the complainant Rajinder Singh

Pathania was to be conducted the accused/present petitioner moved an application under Section 91 Cr.P.C. for production of records of inquiry conducted on the application of the accused claiming that he had earlier moved the applications bearing CR No.12448 Dr.1241/Peshi/DIG/Ldh dated 7.8.2009; CR No.6988 dated 30.4.2009, C-1221/SO/DGP dated 29.10.2009 and CR 17340 DR 99 dated 5.11.2009 and claimed that during the inquiry statements were recorded which are not part of the challan and has sought prayer that for the cross-examination of the witnesses the same were necessary to be confronted to the witnesses.

It is the own case of the petitioner that the investigations were separately conducted and challan was presented. Any inquiry separate from the investigations is only administrative in nature and by no means forms part and parcel of the investigations and cannot be termed to be an evidence by virtue of provisions of Section 3 of the Evidence Act. It is well entrenched law reliance of which can be taken note from the ratio laid down in case of **Rupan Deol Bajaj vs. Kanwar Pal Singh Gill 1995 (3) RCR 700** where it was laid down by the Hon'ble Apex Court that Court is not bound by the conclusions arrived at by the Police and has to exercise its judicial discretion and any statement recorded by Senior Police Officer subsequently finding after interrogation of the accused to bring forth his innocence cannot be taken into consideration and the Court cannot rely on such an investigation and result thereon. It is not the case of the petitioner that these are the statements/documents or evidence collected during the course of investigations but rather what he claims to be a separate administrative act on his application for inquiry and, therefore,

when the challan has already been presented and these documents do not form part of the report under Section 173 Cr.P.C. Enormous jurisdiction vests in the Court which has a discretion in the matter if such a thing is relevant and whether its production is desirable or not.

Reverting back to the instant case any such parallel inquiry other than the investigations cannot be allowed to take the place of an evidence in the investigations and, thus, thwart the report under Section 173 Cr.P.C and, therefore, cannot be clothed under Section 161 Cr.P.C. The Court below have rightly considered this aspect and come to a justifiable conclusion, however, petitioner is at liberty to summon any document or record so desired by him to advance his defence and such an application cannot be allowed to override the judicial exercise of powers by the Court below.

Thus, finding no merit the present petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

August 17, 2016
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Whether speaking/reasoned : Yes

Whether reportable : Yes