

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

CRM-M No.36995 of 2016.

Date of Decision: 21.10.2016.

Kashmir Kaur @ Veero

....Petitioner.

VERSUS

State of Punjab

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. V.K. Sandhir, Advocate for the petitioner.

SNEH PRASHAR, J.

By filing this petition invoking the provisions of Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C."), the petitioner has sought quashing of order dated 20.08.2016 (Annexure P-3) passed by learned Additional Sessions Judge, Amritsar, whereby the application under Section 45 of the Evidence Act filed by the petitioner for comparison of specimen signatures of Manpreet Kaur daughter of Baldev Singh with the disputed signatures on memo of intimation of arrest, was dismissed.

The petitioner is facing trial in criminal case bearing First Information Report No.178 dated 23.07.2014 under Section 18/61/85 of the N.D.P.S. Act, Police Station Sultanwind, Amritsar. After the prosecution concluded its evidence and the statement of the petitioner under Section 313 Cr.P.C. had been recorded, the petitioner entered upon her evidence and moved the application, referred to above, i.e. for comparison of the

specimen signatures of her daughter Manpreet Kaur with the disputed

signatures on memo of intimation Ex.P6/F. Finding the application without merit, it was dismissed by learned trial Court vide the impugned order dated 20.08.2016.

The submissions made by Mr. V.K. Sandhir, learned counsel representing the petitioner have been considered.

It is submitted by the learned counsel that an accused has a right to fair trial. Referring to the dictum of law enumerated in **T. Nagappa vs. Y.R. Muralidhar, 2008(3) R.C.R. (Criminal) 926**, learned counsel submitted that a right to defend oneself is a fundamental right of an accused as enshrined under Article 21 of the Constitution of India and for that purpose to adduce evidence is recognized by the Parliament in terms of sub-section (2) of Section 243 Cr.P.C. It is the accused who knows how to prove his defence.

Turning to the case in hand, learned counsel contended that the petitioner had taken a defence that she was illegally detained in the police station and was then falsely implicated in the present case. The prosecution pleaded that after her arrest, her daughter namely Manpreet Kaur was given the required information and her signatures were obtained on the consent memo of intimation. However, the signatures on the memo of intimation are not of her daughter and were in fact forged by the police itself. It is to prove the said fact that she had filed application for comparison of signatures of her daughter Manpreet Kaur with the disputed signatures on the memo of intimation and her application has been wrongly rejected by learned trial Court. Reliance has also been placed on **Kalyani Baskar v. M.S. Sampooram, 2007(1) RCR (Criminal) 311**.

Admittedly, the petitioner has entered upon her evidence in the

case in which she is facing trial. It has been observed by learned trial Court in Para No.5 of the impugned order that the prosecution had examined two material witnesses namely, PW2 ASI Gurvinder Singh, the Investigation Officer and PW2 ASI Vinod Kumar for proving recovery of a narcotic drug from the petitioner. During cross-examination, no suggestion was put by the petitioner to either of the witnesses that the memo of intimation of arrest appended by the police with the final report does not bear the signatures of Manpreet Kaur, her daughter. In her statement under Section 313 Cr.P.C. also, no such plea was raised by the petitioner. It means that the signatures of Manpreet Kaur daughter of the petitioner on the intimation memo were never disputed by her during evidence of the prosecution. Otherwise also, the memo of intimation is not a document on which the prosecution can be said to be relying upon for proving its allegations against the petitioner.

There are no two thoughts on the dictum of law laid down in **T. Nagappa's** case (supra) and **Kalyani Baskar's** case (supra), but the facts of both the cases are completely distinguishable from the facts in hand. Unlike the facts of the said cases, in the instant case the signatures on a document sought to be compared by the petitioner are not on a material document directly related to the allegations against the petitioner and had also not been disputed/ disowned by her during recording of the evidence of the prosecution or her own statement.

Interpreting sub-section (2) of Section 243 of the Code of Criminal Procedure, learned Apex Court observed in **T. Nagappa's** case (supra) that the Court being master of the proceedings must determine as to whether the application filed by the accused in terms of sub-section (2) of

bring on record a relevant material. Also that there cannot be any doubt whatsoever that the accused should not be allowed to unnecessarily protracting the trial or summon witnesses whose evidence would not at all be relevant.

The memo of intimation of arrest has no direct or indirect connection with the vital and material documents relied upon by the prosecution to substantiate the charges. Proof of signatures on the intimation memo will be of no relevancy especially when the same had not been disputed during the evidence of the prosecution. The application of the petitioner is not bonafide. It had been filed only for the purpose of vexation and for delaying the trial.

Thus, there being no merit in the petition, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

21.10.2016
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Whether speaking/ reasoned : Yes

Whether Reportable : No