

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

**Crl. Revision No. 1700 of 2015**

**Date of decision : 31.03.2016**

**Sant Gurmeet Ram Rahim Singh**

**..... Petitioner**

**versus**

**Central Bureau of Investigation, Chandigarh**

**... Respondent**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the digest?

**Present: Mr. S.K. Garg Narwana, Sr. Advocate with  
Mr. Karan Garg, Advocate  
for the petitioner**

**Mr. Chetan Mittal, ASG, India with  
Mr. Sumeet Goel, Standing counsel for CBI**

**ANITA CHAUDHRY, J. (ORAL)**

Challenge in this revision is to the order dated 29.04.2015 passed by Special Judge (CBI) Haryana at Panchkula.

Some facts are necessary to be exposted. Sadhvis of Dera Sacha Sauda were said to have been ravished at the Dera. Anonymous complaint sent to the High Court set the law in motion. The complaint was handed over to the CBI. The FIR was lodged in 2002, the charge-sheet was laid in July 2007. The examination of the prosecutrix started somewhere in 2009. There was one more victim. The cross-examination was completed after they had been called repeatedly. The defence had put a letter to the prosecutrix allegedly written by her which was denied by the victim. That letter was allegedly written in the year 2001. The letter saw the

light of the day after 8 years of the complaint. The accused moved an application on 09.05.2009 seeking directions to the prosecutrix to give her specimen handwriting as she had denied her signatures on the letter mark D and Ex. DA. The trial Court vide its order dated 06.10.2009 ordered that the application would be disposed of after the prosecution had closed its evidence. That order was assailed before the High Court.

The High Court vide its order dated 08.03.2010 directed the trial Court to decide the application in accordance with law. The accused filed an application seeking disposal of the application dated 09.05.2009. The application was allowed. The prosecutrix was summoned to give her specimen signatures.

The accused thereafter filed an application Annexure P-13 seeking signatures/handwriting of PW5 and for sending it for comparison to CFSL Madhuban for just disposal. In the end it made a prayer that it should be sent to CFSL Madhuban or CFSL CBI Delhi. The Court sent the admitted and disputed signatures for comparison to CFSL, Chandigarh. The Forensic Science Laboratory sent its report which was inconclusive. The petitioner moved application Annexure P-22 seeking direction to the prosecutrix to provide some more contemporary period writings and signatures of the year 2001-2002 as desired by CFSL, Chandigarh. He sought further directions to the prosecutrix to give her specimen handwriting in hindi and signatures in English on 10 to 15 sheets by dictation in different sittings as required by CFSL Chandigarh. It was pleaded that laboratory had asked for some more material so as to give a definite report with regard to similarity or dissimilarity of the questioned handwriting. The trial Court heard both the sides and dismissed the application on 29.04.2015.

I have heard both the sides at great length.

Initiating the arguments, learned counsel for the petitioner

vehemently urges that they had been pressing for handwriting and specimen signatures of the prosecutrix in 2009 but the matter was deferred to be taken up later and a revision was filed wherein directions were given to the trial Court to decide the application and the application was allowed and when the signatures and writing were being taken they had requested the Court to take more material but the Court was not inclined and the Court did not accede to their request and instead of sending the writing to FSL Madhuban or CFSL CBI Delhi, it sent them to CFSL Chandigarh who examined the handwriting and sent its report asking for more contemporary writings and specimen handwriting to be taken on different dates to form an opinion. It was urged that their right should not be closed and directions should have been given to the prosecutrix to give the handwriting. Reliance was placed on ***B.A. Linga Reddy and others vs. Karnataka State Transport Authority and others, (2015) 4 Supreme Court Cases 515, Rattiram and others vs. State of Madhya Pradesh, (2012) 4 Supreme Court Cases 516, P.R. Ramakrishnan vs. P. Govindarajan, 2007 Cri.L.J. 1897, Natasha Singh vs. CBI (State), 2013 Cri.L.J. 3346, Surendra Singh vs. State of Bihar, 2006(2) Criminal Court Cases 367 (S.C.).***

On the other hand the submission on behalf of the CBI was that the trial Court had given dictation to the prosecutrix which covered almost 2/3<sup>rd</sup> of the text of the disputed letter and sufficient material was taken and the attempt is to compare writing purported to be written in 2001 with the writing taken in 2013 and with passage of time the pattern changes. It was urged that liberty was granted to the accused to get the matter compared from a private expert but they did not choose to examine and this fact is reflected in the order dated 04.02.2015. It was urged that the evidence of the defence had been closed and that order was upheld but in a separate revision the High Court had directed the trial Court to decide the application

dated 29.11.2014. It was contended that the prosecutrix can not be called again and again and the matter was sent to CFSL and whatever material was available, was sent including the documents which were referred to by the defence and the Court can not be compelled to create evidence in favour of the parties and no purpose would be served and this will only lead to more delay. It was urged that delay in the trial is on account of successive applications filed by the petitioner.

It is apposite to note that the challan was presented in 2005. The prosecution closed its evidence some time in 2013. The cross examination of the victim took about two years. It had been mentioned during arguments that the prosecutrix had been called six times. The record also reveals that the defence had cited 98 witnesses out of which 28 witnesses were examined and after the defence was closed final submissions were being made. Successive applications were filed thereafter but it need not detain us.

The accused had produced a letter which was put to the prosecutrix. She denied her writing. A prayer was then made for obtaining her handwriting. The prosecutrix was again called and her specimen signatures were taken. The trial Court noted in its order that almost 2/3<sup>rd</sup> of the text was dictated and taken as sample on 27.07.2013. It had noted that the admitted signatures available on the record of the contemporary period were also sent for comparison with disputed handwriting and signatures. It would be apposite to refer to para 5, 6 and 7 of the impugned order which reads as under:-

*"5. After having heard both the parties at length, I have come to the following conclusion:-*

*The present controversy between the parties is continuing from the years together i.e. from the year 2002. FIR in this case was*

*lodged on 12.12.2002 and charge-sheet was filed on 30.07.2007. From the year 2007 to the date when prosecutrix was examined, two years had already elapsed. There is no explanation on part of the defence as to why at the time of challan, the disputed letter was not produced by the defence so that at least specimen signature and hand-writing of the prosecutrix could have been taken by the court at the earliest. I am of the considered opinion that in order to obtain specimen signatures of the prosecutrix, time is essence. At this stage, it would not be appropriate to express opinion as to which party was at fault. I have to see the facts as these are today at the time of deciding this application. It is a common factor that by passage of time, hand-writing and signatures of a person changes day after the other. If the person has left writing regularly, naturally there are great variations in form and module of his handwriting and signatures. This thing might have happened in this case. The disputed letter pertains to the month of April, 2001. Whereas specimen signatures were obtained on 27.07.2013. Certainly a time of 12 years have lapsed between day of writing questioned document and writing of specimen signatures and writing. Now it is running 2015 and thus, such variations are bound to occur in module, as discussed above, which may be at more variance as compared to the year 2013, when specimen of PW-5 prosecutrix were taken in court. Consequently, at this stage, it will be futile exercise to take further specimen signature or handwriting of the prosecutrix.*

*6. As far as argument of learned defence counsel to call the prosecutrix PW5 and to ask her to write whole text of the letter is concerned, I am of the considered opinion that in such type of*

*matters, it is the discretion of the court as to what sort of specimen is required. In this case, the disputed letter Ex.DW22/1 is in three pages whereas almost 2/3<sup>rd</sup> of text is reflected in specimen handwriting of PW-5 taken on 27.7.2013 by this court and the same spreads in three pages. In these circumstances, it cannot be said that the court has failed to obtain enough text material as sample handwriting.*

*7. In light of aforesaid findings, by no stretch of imagination, it can be said that further specimen handwriting of prosecutrix PW5 Sarjeevan is required in this case and thus, no purpose would be served to call her again in the court and to obtain her handwriting.”*

It is also necessary to notice the observations made by the trial Court in its order dated 17.04.2010 (Annexure P-6) which reads as under:-

*“9. I am of the considered view that in order to ascertain the truth, it would be appropriate in case the prosecutrix is directed to give her specimen signature and handwriting in the court. Neither CBI, nor the accused has produced on the record any other document before this Court with which the court may compare the disputed documents and may ascertain whether the disputed document was scribed by the prosecutrix or not. In these circumstances, it would be appropriate in case the prosecutrix is directed to give her specimen signatures and handwriting. I order accordingly. Let the prosecutrix be produced in the court on the next date of hearing i.e 08.05.2010 for giving her specimen signature and handwriting.*

The accused had moved an application on 29.11.2014 and the prayer made therein was that the specimen handwriting and signatures of PW5 alongwith documents Ex. D-22/1 (Mark DC), Progress Report Ex. DA and entries Ex. DE and Ex. DF in the Attendance Register and some more entries Ex. DW28/1 to Ex. DW28/6 were necessary to be sent to CFSL Madhuban. The trial Court took note of the documents which the defence wanted to send for comparison. It allowed the prayer and sent the specimen handwriting, the admitted signatures and the disputed letters for comparison. The Forensic Science Laboratory examined the documents and sought some more specimen and admitted handwriting and signatures of the contemporary period and also fresh specimen handwriting taken on dictation on several sheets (10 to 15) with reasonable speed in different sittings containing similar letters and their combination.

The accused moved an application seeking direction to the prosecutrix to give some more material. The trial Court elaborately dealt with the issues raised by the petitioner. It had noted that with passage of time the handwriting and the pattern change and variations appear and sufficient material had already been sent and the prosecutrix could not be summoned again. It had noted that the record contained some signatures which was prior to the application filed by the defence and the prosecutrix had no occasion then to disguise her signatures and those were also sent.

The observations of the trial Court contained in para 9 read as thus :-

*“9. As far as requirement of further material is concerned, I am of the considered opinion that from 2001 to 2015, at least 1 ½ decade had passed. It is also not disputed that in case now the prosecutrix is called in the court, her attitude and temperament at the time of giving specimen signatures/handwriting will certainly*

*be hostile one. It is obvious that one, who denies the genuineness of a writing which an opponent affirms or vice versa, will be tempted to form his writing to suit his claim if her writes post litem mortem. So any testimony of expert based upon signature specimen prepared after delay of 15 years, may not be admissible in evidence. I am also of the considered opinion that the prosecutrix had appeared in this case many a time for examination. The offence of rape is sensitive matter. Therefore, calling the prosecutrix time and again in the court may add to her agony. Whatever the decision of the case may be but it is not advisable to call the prosecutrix time an again in the court. Consequently, I found no justification by any angle to call the prosecutrix again to the court for giving any specimen signatures and handwriting in question. If it is so, the application of the defence carries no weight."*

The trial Court concluded that the opinion of the experts had remained inconclusive because the material could not be compared and, therefore, it was of the view that the whole exercise would now be futile. It also noted that the accused was given the opportunity to get the matter examined from the private expert but they had chosen not to examine him.

Extensive material that was available on the record was sent. The disputed letter is of the year 2001. It was for the defence to produce/ summon any documents, when they were leading evidence, if they had any. The defence evidence had been closed. The Supreme Court had allowed the accused to examine only four more witnesses which were examined. It is not a case of the accused that they had some material which was not sent. The prosecutrix can not be summoned again and again on the asking

of the accused. It is often stated that when a women is raped she undergoes two crisis, the rape and subsequent trial. First wounds her dignity, the second not less potent forces her to relive the traumatic experience and brings her in the glare of publicity with the paraphernalia of criminal justice system focused on her.

The prosecutrix had been called 6/7 times (if not more) to the Court. It would be putting her to psychological trauma. It would even otherwise not serve any purpose. It would be futile exercise. There is no infirmity in the findings recorded by the Court below. Just as the accused is entitled to fair trial and proper opportunity, the victim also has a right to speedy trial. The trial has got delayed. It needs to be expedited.

The petition is dismissed.

**March 31, 2016**

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**(ANITA CHAUDHRY)  
JUDGE**