

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

**CRL. REVISION No.2271 OF 2015 (O&M)
DATE OF DECISION : 31ST MARCH, 2016**

Sant Gurmeet Ram Rahim Singh

.... Petitioner

Versus

**Central Bureau of Investigation through the Superintendent of
Police, Sectro-30, Chandigarh.**

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

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Present : Mr. S.K.Garg Narwana, Senior Advocate with
Mr. Naveen Gupta, Advocate for the petitioner.

Mr. Chetan Mittal, ASG, India with
Mr. Sumeet Goel, Advocate
Special Public Prosecutor, CBI.

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ANITA CHAUDHRY, J.

1. This revision is directed against the order dated 11.05.2015, passed by the CBI Court, Haryana at Panchkula whereby the evidence of the defense had been closed. The request of the petitioner to tender documents was declined.

2. The court on its own motion had taken notice of an anonymous complaint and on the basis of the direction therein, the CBI registered the FIR. The chargesheet was laid against the petitioner in July, 2007. Charge was framed under Sections 376 and 506 IPC on 06.09.2008. The prosecution closed its evidence in

September, 2013. The statement of the accused was recorded on 11.02.2014. The defence evidence was closed on 05.03.2015.

3. The petitioner is aggrieved by the order dated 11.05.2015, as he was not allowed to tender some documents.

4. It is necessary to notice some relevant facts so as to give the background. When the prosecutrix was under examination, a letter Mark-D was put to her, she denied her handwriting. The petitioner moved an application for taking the specimen signatures and her handwriting. The trial Court vide its order dated 06.10.2009 ordered the application to be kept pending till the prosecution concluded its evidence. A revision was preferred against the order. The High Court vide order dated 08.03.2010 directed the trial court to decide the application. In compliance thereof, the trial Court heard the application and directed the prosecutrix to give her specimen signatures and handwriting in the court. It is appropriate to notice that neither the CBI nor the accused had produced any document in the court with which the Court/Experts could compare the disputed documents and ascertain as to whether the disputed document was scribed by the prosecutrix.

5. The father of the victim filed a miscellaneous petition in the High Court challenging the order. The petition came to be dismissed on 13.02.2013. The prosecutrix was produced in the court and her specimen handwriting and signatures were taken. The petitioner in this petition has pleaded in para 17 that they had orally requested the Court to send the specimen signatures along with

disputed documents and later Exhibit DW-22/1 to some Government forensic laboratory. However, the Court did not take action and the petitioner moved an application for sending the documents for comparison to FSL Madhuban or CFSL, CBI, New Delhi. The trial Court vide its order dated 04.02.2015 disposed of the application and sent the specimen signatures and the documents referred to by the defence in their application to CFSL, Chandigarh.

6. The petitioner has pleaded that the Special Judge, CBI Haryana vide its order dated 04.02.2015 recorded a finding that if the petitioner wanted to get the handwriting compared, he could get it compared by engaging an expert and he could examine the expert of their own choice. The said order was challenged by the petitioner by way of Criminal Revision No.463 of 2015. It was pleaded that though the revision was pending in the High Court, the trial Court wrongly closed the defence evidence despite the fact that they had moved application on 21.02.2015.

7. It was pleaded that the petitioner challenged the order dated 05.03.2015 whereby their evidence was closed but it was dismissed as having being rendered infructuous and aggrieved by the order dated 25.03.2015 the petitioner challenged the order before the Apex Court in SLP (Criminal) No.3297/2015 and the Apex Court passed a direction that only 4 witness shall be allowed to be examined on 11.05.2015 and cross-examination would be concluded on the same day. The petitioner pleads that by implication the order

dated 05.03.2015 passed by the trial Court closing his evidence, had been set aside.

8. The petitioner has pleaded that they had examined four witnesses allowed by the Hon'ble Supreme Court and they wanted to tender the statement of Khatta Singh recorded in another case and the reports, applications and the MLR filed in another case in defence and these documents were certified copies and *per se* admissible but the same was declined by the trial Court. The petitioner now seeks permission to produce the documents by way of defence evidence. It has been pleaded that his defence evidence had not been closed yet and the order of the trial Court was wrong, illegal and perverse.

9. Notice was given to the respondent, who have filed a brief reply. It was pleaded that on anonymous complaint regarding sexual exploitation of *Sadhvis*, the High Court had directed the Sessions Judge, Sirsa to conduct an enquiry and a report was submitted that nobody in the *dera* has disclosed about the sexual abuse of the girls in the *dera* and they had no access to the hostel and the truth could only be ascertained if the matter could be secretly investigated through a central agency. The High Court took cognizance of the anonymous complaint and referred the matter to CBI and investigations were taken up. It was pleaded that two *sadhvis* confirmed rape by Baba Gurmit Ram Rahim Singh during their stay in the *dera* and their statements were recorded by CJM, Chandigarh on 19.03.2007 and chargesheet was filed. Charge was framed under Sections 376 and 506 IPC. It was pleaded that the prosecution had

examined 15 witnesses but the accused took more time to cross-examine the witnesses and the cross-examination continued for months together on a single witness and that led to delay in completing the prosecution evidence and a false plea had been taken that the prosecution took time to complete its evidence. It was pleaded that the cross-examination of both the victims was concluded after one and half year. It was pleaded that the victim had explained that there was threat to her brother and she was under fear and threat of the petitioner and she had been exploited on two different occasions. It was pleaded that the disputed letter was put to the witness and she had denied her writing or her signatures. It was pleaded that the victim was not under their control nor in their touch and meanwhile father of the prosecutrix approached the High Court and the matter remained pending from 2010 to February 2013. It was pleaded that the prosecutrix later appeared and gave specimen handwriting and the trial Court sent the documents to Director, CFSL, Chandigarh. It was pleaded that the petitioner was granted opportunity to examine the handwriting expert of his choice but he did not take any step and court rightly passed the order of closing defence evidence. It was pleaded that on receipt of the orders of the Supreme Court, the petitioner was allowed to examine four witnesses only and he did not bring it to the notice of the Apex Court that the trial Court had already sent the disputed handwriting and specimen signatures to CFSL, Chandigarh and report had been received and it was a concealment of fact from the Apex Court and the petitioner was

guilty on account of his own act and conduct. It was pleaded that the petitioner had made a mockery of the system by filing one application or the other on frivolous grounds and had challenged each and every order passed by the trial Court in order to delay the decision. It was pleaded that the petitioner had examined the witnesses, those were allowed by the Apex Court and he did not make any prayer before the Apex Court that he wanted to tender some documents and he could not be allowed any further opportunity and the application was rightly rejected.

10. I have heard learned counsel for the parties and perused the case.

11. The counsel for the petitioner submitted that the trial Court had closed their evidence and they had approached the High Court but their plea was not accepted and they had approached the Hon'ble Supreme Court, who had allowed the petitioner to examine four witnesses and in compliance of the order they had produced their witnesses on the day fixed by the Supreme Court. It was urged that on the same day they wanted to tender certified copies of some documents which were not permitted and the Court took a wrong view. It was urged that there was no intention to delay the proceedings and the trial Court fixed the case for final arguments and thereafter they moved an application which has been rejected. It was urged that the limited prayer was that they should be allowed to tender the documents.

12. The submission, on the other hand, was that the trial had been delayed and the accused had taken number of adjournments to cross-examine the witnesses and the statement of the prosecutrix was completed in one and a half year. It was urged that the defence evidence have been closed much earlier and thereafter the accused had produced a list of twenty four witnesses and the trial Court on the directions of the High Court went through the list of witnesses and allowed examination of some witnesses. It was urged that after the closure of evidence, no further evidence could have been led and since the Apex Court had allowed the examination of four witnesses, only those could be permitted. It was urged that witnesses were examined and the case was again posted for arguments and thereafter some more applications were filed and the orders passed on those applications have been challenged separately in the revisions fixed today.

13. It would be necessary to reproduce the impugned order dated 11.05.2015, which reads as follows:

“Learned defence counsel has brought four witnesses along with him in view of order of Hon’ble Supreme Court. Out of aforesaid witnesses, three DWs namely Shri Gurdial Taneja, ESI Rishal Singh and Shri Dharam Singh have been examined as DW-35, DW-36 and DW-37. 4th witness Rattan Singh has been given up. Learned defence counsel has placed certified copy of statement of PW Khatta

Singh in case RC No.8(S)/2003, certified copy of supplementary report dated 28.09.2002, certified copy of application dated 06.09.2005 moved by accused Krishan Lal in case RC No.8(S)/2003, Certified copy of order dated 06.09.2005 in case CBI Vs. Sabdil etc., certified copy of MLR dated 06.09.2005 of Krishan Lal and certified copy of order dated 07.08.2014 passed by learned Sessions Judge, Bhatinda in revision petition. He made a request that the defence be allowed to tender these documents in defence. Learned Special PP strongly objected. Heard. It was argued by learned defense counsel that the aforesaid documents are certified copies and *per se* admissible and his defence evidence has not yet been closed. To the contrary, learned special PP argued that on 05.03.2015, defense evidence was closed. Hon'ble Supreme Court has allowed the defense counsel to examine four witnesses. Four witnesses have been examined and therefore, request of learned defence counsel is devoid of merits. After having heard, I have come to the conclusion that evidence of defence stands closed on 05.03.2015. Hon'ble Supreme Court has not set aside the order in its entirety. Rather, concession was given to examine four witnesses.

Therefore, the defence has to act within four corners of order of Hon'ble Supreme Court. Consequently, request of learned defence counsel is not sustainable and hence, declined. However, documents be made part of the record. Another application is filed by defence requesting therein that they want to examine hand-writing expert and he be allowed to take photograph of the record. Learned Special PP for the CBI requested that he wants to file reply of the said application and sometime be given. Now the case is adjourned to 16.05.2015 for filing reply and arguments on the same.”

14. The evidence of the defence have been closed on 05.03.2015. The Apex Court had permitted the petitioner to examine only four more witnesses. The order reads as under:

“Heard Mr. S. K. Garg, learned Senior counsel for the petitioner.

The singular grievance of the petitioner is that his right to adduce defence witnesses has been curtailed. Learned senior counsel would submit that the accused would only like to examine four more defence witnesses and an expert witness. As far as examination of the expert witness is concerned, that will depend upon the adjudication by the trial court and, therefore, we restrain from expressing any

opinion on that score. As far as other four witnesses are concerned, they shall be made available before the court on 11.05.2015 and the court shall examine and get the cross examination done by the prosecution on the same date. It is hereby made clear that if the petitioner would seek adjournment, his defence shall stand foreclosed.

With the aforesaid observation and direction, the special leave petitions stand disposed of.”

15. The limited question now is as to whether after the closure of the defence evidence the accused could be permitted to tender more documents. The case was fixed for defence evidence for the first time in February, 2014. The accused had examined 29 witnesses and had given up 6 witnesses. The pleadings show that successive applications have been filed by the accused on one ground or the other. The order passed thereafter have been challenged in different criminal revision petition fixed today.

16. The petitioner wants to tender some documents the oldest of which relate to the year 2005, an order dated 07.08.2014 passed in another case by the Sessions Judge, Bathinda. Contention of the petitioner was that they were certified copies and were *per se* admissible and the defence had not been closed.

17. To the contrary the defence evidence has been closed on 05.03.2015. The petitioner had challenged the order of the trial Court before the High Court and it was dismissed. Still not satisfied they

had approached the Apex Court which permitted them to examine four witnesses. They were aware of the documents but failed to tender the same at the stage when their evidence was going on. Limited permission had been granted to the petitioner by the Apex Court. The petitioner did not even refer to the documents at that stage. It appears that the attempt is only to delay the trial in every possible way. There is no explanation, why the documents, the oldest of which relate to the year 2005 could not be brought on record when the defence evidence was being led. The petitioner had been unable to show its relevance either.

18. I find no infirmity in the order assailed.

19. The revision petition is dismissed.

31st March, 2016
'raj'

(ANITA CHAUDHRY)
JUDGE