

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

1. Criminal Revision No. 2863 of 2016 (O&M)

Date of decision : September 02, 2016

Sant Gurmeet Ram Rahim Singh

..... PETITIONER(S)

VERSUS

Central Bureau of Investigation

.... RESPONDENT(S)

2. Criminal Revision No. 2982 of 2016 (O&M)

Date of decision : September 02, 2016

Sant Gurmeet Ram Rahim Singh

..... PETITIONER(S)

VERSUS

Central Bureau of Investigation

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. S.K. Garg Narwana, Sr. Advocate, with
Mr. Deepak Hooda, Advocate, for the petitioner.
Mr. Chetan Mittal, Sr. Advocate, with
Mr. Mohinder, Advocate, for the respondent.

A.B. CHAUDHARI, J.

challenge the orders dated 06.08.2016, passed by the Special Judge (C.B.I.), Haryana at Panchkula, by which the trial Court rejected the applications dated 13.07.2016/19.07.2016 in which prayer was made to direct the prosecution-C.B.I. to produce copies of statements under Section 161, Code of Criminal Procedure, of PW-5 and PW-10 Sarjeevan and Sapna, respectively, recorded by the Investigating Officer, and declining to summon and examine Shri K.L. Raina as a court witness, in exercise of power under Section 311, Code of Criminal Procedure.

In support of the revision petitions, the learned senior counsel for the petitioner, while assailing the impugned orders, contended that Shri K.L. Raina had made investigation into the crime in question and had also recorded statements of witnesses, including PW-5 and PW-10. Shri K.L. Raina, being the Investigating Officer, the prosecution ought to have examined him and since he was not so examined, he being an important witness for throwing light on the investigation, was required to be called as a court witness. It was submitted that the statements of PW-5 and PW-10 were not supplied along with the charge-sheet and they were deliberately being withheld by the prosecution, which amounts to unfairness in the trial. The witnesses in those statements under Section 161, Code of Criminal Procedure, did not say anything about any offence much less the offence for which the petitioner has been charged and, therefore, it is necessary to have those statements on record for fair trial. The Court ought to ask the prosecution

to produce the statements before the Court to unfold the truth. The learned senior counsel, therefore, contended that the impugned orders be set aside and the necessary direction be issued. He relied on several decisions.

Per contra, the learned senior counsel for the respondent vehemently opposed the petitions and supported the impugned orders. He contended that the impugned orders are well reasoned orders and do not warrant interference in revisional jurisdiction. The Special Court has assigned good reasons for not accepting the request of the petitioner. The petitioner is delaying the trial deliberately by filing one or the other application. He has also cited the orders made by Coordinate Bench and argued that the Bench also found petitioner delaying the trial. He submitted that statements of PW-5 and PW-10 were recorded by Shri K.L. Raina when large number of statements of 130 Sadhvis were recorded. The prosecution did not want to rely on all those inconsequential statements. The trial has almost been completed, except for the final arguments by the defence and, therefore, the present applications were made with an ulterior motive. He, therefore, prayed for dismissal of the revision petitions.

I have gone through the entire record including the impugned orders and the reasons recorded by the trial Court.

It is not in dispute that the criminal case is over a decade old. Both the prosecution as well as defence completed recording of their evidence and the prosecution arguments have been heard. It is, thereafter, that the applicationa in question

have been filed by the petitioner for production of statements under Section 161, Code of Criminal Procedure of PW-5 and PW-10 and for summoning Shri K.L. Raina as a court witness. There is a reason to believe that the applications were deliberately filed with a view to procrastinate the trial. The trial is going on since August, 2014 and the petitioner had filed the applications in question with a deliberate intention to delay the trial. Insofar as statements of witnesses under Section 161, Code of Criminal Procedure, the trial court has found that request for supply of copies of statements was already disposed of by declining the same by the trial Court as well as High Court at an earlier point of time, probably in the year 2007 and, therefore, the second attempt at the fag end of the trial was clearly not bona fide. The trial Court is right in saying that it is the choice of the prosecution as to which witness should be examined by it and which should be dropped as the prosecution is master of its case. The defence cannot insist that the prosecution should examine a particular witness as it is the decision of the prosecution to examine or not to examine a particular witness. Insofar as the prayer to examine him as a court witness is concerned, the same was misplaced and misconceived. The prosecution examined two Investigating Officers in the trial. There was, therefore, no necessity for the court to summon Shri K.L. Raina as court witness. In that view of the matter, the defence cannot compel examination of Shri K.L. Raina, who was Investigating Officer for a short time, if the prosecution decided not to examine him. At any rate, PW-15 Satish Dagar and PW-

11 S.S. Sandhu, the two main Investigating Officers, who had major role in investigation, have been examined by the prosecution and, therefore, the question of any prejudice or unfairness in the trial, as contended, does not arise. The issue about his non examination would be dealt with by the trial Court according to law and upon marshalling the entire evidence. Therefore, on no count the petitioner was entitled to file such applications, that too after completion of evidence of both the sides. The trial Court has then observed that, in fact, it was the case of the prosecution itself that Sadhvis/victims were reluctant to speak due to fear. To say that in their statements under Section 161, Code of Criminal Procedure, they had not described about the offence in question and, therefore, the statements are not being produced before the court, would be preposterous in view of the above factual aspect. Not only that, the petitioner cannot be allowed to make such applications at such a late stage. Still the petitioner made an endeavour to file the applications. The trial Court has rightly found that the entire exercise made by the petitioner was with an ulterior motive to delay the trial. The petitioner cannot be allowed to play with the court proceedings in the manner he has done. At any rate, the orders under challenge are legally and factually correct and no interference is required to be made with the impugned orders. It is, therefore, necessary to impose exemplary costs upon the petitioner. The decisions cited before me are distinguishable on facts and hence cannot be applied.

In the result, the petitions are dismissed with costs in

the sum of ₹ 10,000/- each, to be deposited within four weeks before the trial Court.

SEPTEMBER 02, 2016
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(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned : Yes

Whether Reportable : Yes/No