

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

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CRL. MISC. No.M-26197 OF 2016 (O&M)
DATE OF DECISION : 20th FEBRUARY, 2017

Col B. S. Guraya

.... Petitioner

Versus

**Central Bureau of Investigation, Chandigarh Branch, Sector 30,
Chd.**

.... Respondent

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

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Present : Mr. Jasdev Singh Mehndiratta, Advocate for the petitioner.

Mr. Sumeet Goel, Advocate, Retainer Counsel for CBI.

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A. B. CHAUDHARI, J. (ORAL)

Heard learned counsel for the rival parties.

Impugned in this case is the order made by learned trial Judge refusing to allow the plea of the petitioner-accused before the trial court in CBI anti corruption case, to examine 84 additional defence witnesses when admittedly 78 witnesses were already examined by the defence.

I have perused the list of the witnesses proposed to be examined before the trial Court. At the outset, this Court finds it very strange that the trial Court allowed examination of 78 defence witnesses. Many of them stated that they did not know anything. This resulted into wastage of precious time of the trial court in the manner that was done. Not only that after recording of statement of the petitioner under Section 313 Cr.P.C., the petitioner filed one more list of 84 defence witnesses for examining them. I have examined the reasons in relation to this fresh list of witnesses in application and I find that the reasons for examining 84

defence witnesses before the court are based on mere figment of imagination and nothing more. That was rejected by the trial Court for the reasons given in paras 4 to 10 and 12 of its order, which I quote hereunder:

“4. After perusing the first list for defence witnesses filed by the accused for summoning of 78 witnesses and second application for summoning of 84 witnesses and documents placed on file, it reveals that the accused has already examined the witnesses for proving his agriculture produce as well as about his income from other sources and documents from Army Headquarter and Banks by examining 75 witnesses in his defence evidence.

5. The statement of accused u/s 313 Cr.P.C., was completely recorded on 10.3.2016 and the case was fixed for defence evidence. The learned defence counsel requested time for filing the list of witnesses and the time was granted. The accused filed list of 78 witnesses and after scrutiny of defence witnesses, total 75 witnesses were examined in this case. Now, the accused filed the second application for examining of 84 other witnesses in his defence for the same purpose. After scrutiny of 84 witnesses, it is shown that the accused filed the large list of witnesses only to delay the proceedings in this case as he was already conversant with the facts about his income and agriculture produce and other documents relating to his family members and himself since registration of present case.

6. It is necessary to mention here that the present case is pertaining to the year 1993 and is time bound case by Hon'ble Punjab and Haryana High Court, Chandigarh.

7. Hon'ble High Court vide order dated 16.2.2009 in criminal misc. 46609 of 2009 in criminal appeal no.37-SB of 1996 titled as CBI Vs. B. S. Guraya and others had directed CBI Court to conclude the trial within one year after receipt of record thereafter, the time was extended for one year vide order dated 7.9.2010 (as prayed for filed within the then Learned Special Judge Shri Darshan Singh).

8. The said time limit was further extended by 8 months through order dated 26.8.2011 passed in criminal misc. no.45841 of 2011 in criminal appeal No.S-37 SB of 1996 by Hon'ble High Court, Chandigarh on communication date 12.08.2011 as requested by the then Special Judge, CBI court Ms. Ritu Tagore.

9. Again my Predecessor Sh. Vimal Kumar, Special Judge, CBI Court also requested extension of time in this case and Hon'ble High Court, Chandigarh pleased to extent the time within one year vide order dated 27.2.2015 and again time was sought for extension of time by the Court of undersigned and Hon'ble High Court directed to make all efforts to conclude the trial within the period of 6 months. The 6 months period is going to

be completed on 26.2.2016. The accused/applicant and his counsel has knowledge about the limitation.

10. The sufficient time was provided to the accused in defence evidence to examine all the material witnesses by filing the list of witnesses. The first list of witnesses filed by the accused and all the witnesses as per list has been examined. The witnesses cited in the second list are relating to same department, Bank, Army authorities, Revenue Departments as already examined by the accused in defence evidence in this case.

11. xxx xxx xxx

12. In the present case, the first application for summoning of 78 witnesses filed by the accused on 17.03.2016, resulted in the passing of order dated 19.3.2016 which restricted their prayer and confined it to a certain category of witnesses who were detailed in the first list of the witnesses. That application was purporting to have been moved u/s 233 of Cr.P.C. as the application itself was silent on the provision of law which was sought to be invoked before the Court. As per first list the summons were served through Special Messenger in order to effective steps for producing defence witnesses expeditiously examination of defence witnesses. After examination of 75 witnesses again the accused moved second application seeking summoning of above-said 84 defence witnesses which are not relevant in this case for providing his innocence.”

I fully agree with the reasons given by the trial court while rejecting the application for examination of 84 witnesses. It is noteworthy that the proceedings were expedited by this Court. However, the petitioner is protracting the disposal of the trial. The present petition is summarily rejected.

Liberty is however reserved in favour of the petitioner to examine himself, his wife, son and daughter. In any case, if the petitioner wants to examine himself, his wife and son and daughter the same shall be done within four weeks from today. No further time should be granted. The trial Court shall not allow the petitioner to bring irrelevant evidence.

20th February, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No.