

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

Criminal Misc. No.M-3763 of 2017 (O&M)

Date of Decision: August 18, 2017

Rajesh Shukla

.....PETITIONER(s).

VERSUS

Central Bureau of Investigation

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Mehndiratta, Advocate
for the petitioner (s).

Mr. Sumeet Goel, Advocate
Retainer counsel for respondent-CBI.

SURINDER GUPTA, J.

Petitioner Rajesh Shukla has filed this petition for quashing order dated 02.11.2016 (Annexure P-5) passed by Special Judge, CBI Court, Chandigarh, whereby his application dated 16.07.2016 for directing respondent-Central Bureau of Investigation(CBI) to conduct further investigation, has been dismissed.

The petitioner, in his application, has alleged that a very important part of the entire incident of conducting raid by CBI was recorded in CCTV Camera installed in Police Post Sector-45, Chandigarh. Recording of the incident in the CCTV footage will establish the innocence and false implication of the petitioner. Said piece of evidence has been left out by the CBI. An Inspector of CBI, who was part of raiding party was suspended by the Director (CBI) because of his role which was got recorded in CCTV Camera. The Central Forensic Science Laboratory(CFSL) report along with original record has also not been received so far and copies of the same

have not been supplied to the petitioner. In the absence of CFSL Report, it cannot be said that the voice sample on which CBI has relied has voice of the petitioner. Due to these reasons petitioner has sought further investigation of the case and fixing of case for consideration on framing of charge after receipt of CFSL Report.

In reply to the application by CBI before lower Court, it was alleged that the trap, in this case was laid after the registration of FIR on 03.09.2014 in which Dilbaj Singh was caught red handed while demanding and accepting bribe of ₹10,000/- from the complainant on behalf of petitioner. ₹5,000/- out of the bribe amount was passed on to the petitioner, who was also caught red handed while accepting part of the bribe amount from co-accused. The prosecution has recorded version of petitioner which established the demand of bribe by him from his co-accused Mukesh Kumar. CFSL, New Delhi vide its report dated 07.10.2014, has given positive opinion with regard to the presence of ions of phenolphthalein and sodium carbonate in the hand washes/pant washes of petitioner Rajesh Shukla and co-accused Dilbaj Singh. The report of CFSL on voice sample will be supplied to the petitioner in due course. The petitioner is simply adopting the delaying tactics by moving such type of applications.

Learned counsel for the petitioner while referring to the observations of Co-ordinate Bench of this Court in case of ***Rajbir Singh and others Vs. State of Haryana (CRM No.12017 of 2014 in CRA-S-3105-SB-2012) decided on 22.08.2014***, has argued that when the accused is not satisfied with the investigation, he could move application before the trial Court seeking further investigation and the Court is duty bound to issue directions to the investigating agency to conduct further investigation. The

entire incident of laying the trap and conducting raid was recorded by the CCTV camera installed at Police Post Sector-45, Chandigarh. On the basis of a CCTV footage, one Inspector of CBI was also suspended. CCTV footage is a very vital piece of evidence, which the investigating agency has not looked into or made part of the challan.

Learned Retainer counsel appearing for CBI has argued that the CCTV footage of the incident was not a material piece of evidence. In fact, the prosecution case is based on direct evidence, including conversation of the petitioner with claimant which were recorded by the investigating agency prior to conducting of raid. At the time of raid, there was exchange of hot words and a scuffle had ensued in which one Inspector of raiding party was also involved. Director (CBI) took note of the same and suspended that Inspector. However, this reflects the discipline which CBI intends to maintain and does not support the case of the petitioner, in any manner. Even otherwise, this CCTV footage is available with the petitioner, which he can always produce in defence.

On giving a careful thought to the submission of learned counsel for parties, I find no reason to accept submissions of learned counsel for petitioner for the reason that non-production of CCTV footage or CFSL Report, in no manner, can be termed as deficiency in the investigation on the part of investigating agency. Challan has been presented against the petitioner on the basis of direct evidence. His recorded conversation is an evidence to corroborate the testimony of prosecution witnesses. It has been stated that report of CFSL will be supplied to the petitioner on receipt of the same. If that report is not supplied to the petitioner, it may damage prosecution case and on this point,

no further investigation is called for.

This contention of learned counsel for the petitioner that CCTV footage of the incident has been left out by the investigating agency, is also not a reason for giving direction to the investigating agency to conduct further investigation. The case of the prosecution is not based on CCTV footage. Suspension of an Inspector of raiding party for his behaviour at the time of raid, cannot be taken as proof of falsity of prosecution case so as to order further investigation. The petitioner will be at liberty to produce the CCTV footage in defence or at the time of cross-examination of prosecution witnesses, if he so desires.

The directions issued by the Coordinate bench of this Court in case of ***Vikram Singh Vs. State of Punjab*** Crl. Misc. No.M-24833 of 2013 decided on 03.12.2013, which were reiterated in case of ***Rajbir Singh and others Vs. State of Haryana (supra)***, are of no help to the petitioner. It is not mandatory or binding on the Court to issue direction for further investigation only on the application of victim/accused. The court has to look into the facts and circumstances of each case before passing any order in this regard.

Keeping in view the above facts, I find no reason to interfere with order dated 02.11.2016 passed by learned Special Judge CBI Court, Chandigarh or to direct any further investigation/reinvestigation of the case.

This revision has no merits.

Dismissed.

August 18, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE