

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

(Sr.No.260)

CRM-M-44139-2016 (O&M)
Date of Decision:-May 16, 2017

Ram Phal and others

.....Petitioners

V/S

State of Haryana

.....Respondent

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

Present : Mr. Rakesh Gupta, Advocate,
for the petitioners.

Mr. G.S. Salwara, DAG Haryana.

Mr. DPS Bajwa, Advocate,
for the complainant.

A.B. Chaudhari, J. (Oral)

Reply has been filed by the State counsel today in Court and the same is taken on record.

Heard learned counsel for the rival parties.

After committal of the Sessions case to the Sessions Court, an application was moved by the accused on 26.02.2016 before the trial Court before committal which was heard by the learned Sessions Judge for considering the prayer for undertaking lie detection test for witnesses namely Ram Phal S/o Sh. Ram Singh, Kulwant S/o Sh. Satyawar, Jeeta S/o Sh. Ran Singh, Ramesh S/o Sh. Jeeta Ram, Virender S/o Jeeta Ram and Satish S/o Sh. Jhasa Ram all residents of Village Kaloda Khurd, Tehsil Narwana, District Jind, paragraphs 1 to 3 of the said application, which reads thus:-

“1. That the aforesaid case has been registered against

the offender on the false and frivolous complaint of Ram Phal S/o Ram Singh. The accused have not committed any murder. The accused have not murdered Kalawati w/o Jita resident of Kaloda Kalan. Instead the complaints themselves committed the crime of murder and falsely implicated us in this case.

2. That the prosecution has applied for lie detection test on us to which the accused never objected and willingly agreed to their test. And the court has accepted the application.

3. That to know the truth it is mandatory to conduct lie detector test on the accused. This lie detector test is quite necessary to be conducted on the aforesaid witnesses in order to arrive at the correct decision and justice.”

The trial Court made the impugned order on 10.08.2016, para-4 of which reads thus:-

“4. I have heard the rival contention of the parties and perused the record. In my view if the lie detection test is helpful for just decision of the case, then there is no harm to conduct such test of the above said persons. Therefore, keeping in view the facts and circumstances of this case, the investigating officer is directed to get conducted the lie detection test of Ramphal son of Ram Singh, Kulwant son of Satyawar, Jeeta, Ramesh, Virender, Satish all residents of village Kaloda Khurd as per rules or notification framed in the State of Haryana. Further, the above said persons namely Ramphal son of Ram Singh, Kulwant son of Satyawar, Jeeta, Ramesh, Virender, Satish all residents of village Kaloda Khurd are directed to appear before the investigating officer and subsequently before any other authority to facilitate the lie detection test in this regard in the presence of their counsels. The application in hand stands allowed accordingly. Now to come upon 24.08.2016 for consideration on charge.”

It is clear, that the impugned order without consent of the

witnesses amounts to violation of their fundamental right. That apart the impugned order also amounts to ordering reinvestigation. Admittedly, the investigating officer did not apply for further investigation at appropriate stage or at any stage. The application filed by the accused for lie detection test was also not maintainable looking to the scheme of Section 173 of Cr.P.C. In that view of the matter, rule is made absolute. Impugned order dated 10.08.2016 passed by the Additional Sessions Judge, Jind is quashed and set aside. Trial Court to proceed further.

Disposed of.

May 16, 2017
pankaj

(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No