

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

Crl. Revision No.2294 of 2015 (O&M)

Date of Decision: July 05, 2017.

Sant Gurmeet Ram Rahim Singh

.....PETITIONER(s).

VERSUS

Central Bureau of Investigation, Chandigarh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. Sumeet Goel, Advocate,
Retainer counsel for respondent-CBI with
Mr. S.S. Yadav, D.L.A.

SURINDER GUPTA, J.(Oral)

This is revision against the order dated 06.06.2015 passed by learned Special Judge (CBI) Haryana at Panchkula, whereby application of petitioner dated 11.05.2015 (Annexure-P23) and 13.05.2015 (Annexure P-24), were dismissed.

2. Vide application dated 11.05.2015, petitioner intimated the Court about his intention to examine Handwriting and Fingerprints Expert and prayed as follows:-

“That handwriting expert may be informed about the questioned handwritings and signatures, admitted handwriting and signatures and specimen handwriting

and signatures and he be allowed to take photographs of the same in order to enable him to give his expert opinion about the similarity/dissimilarity of the same, in the interest of justice.”

3. Thereafter, he moved application dated 13.05.2015 seeking the relief that he be permitted to examine handwriting/fingerprint expert in order to get expert opinion with regard to the admitted/specimen/questioned handwriting and signatures of PW5 Sarjeevan.

4. Learned counsel for the petitioner has argued that during the cross-examination of PW5 Sarjeevan on 09.05.2009, she was confronted with the letter Ex.DW22/1, which was in her handwriting but she denied the same and an application was moved to take her specimen signatures on the same day i.e. 09.05.2009. But her specimen signatures and handwriting were taken on 27.07.2013. Thereafter, the application was moved by petitioner for sending the disputed writing/signature of PW5 Sarjeevan and her specimen writing/signatures for examination by expert at FSL, Madhuban or CFSL (CBI), New Delhi and on his application, specimen/admitted and disputed signatures/writing of PW5 were sent to Central Forensic Science Laboratory (CFSL), Chandigarh. While giving report, Director, CFSL, Chandigarh required some more material as mentioned in the report as follows:-

(i) Few more admittedly genuine extensive Hindi writings and English signatures of Mrs. Sarjeevan of contemporary period containing similar letters and their combinations (model and design) as occurring in the questioned document marked Q1 to Q12 as well as admittedly genuine signatures of Mrs. Sapna Rani of contemporary period containing similar model and

design as occurring in the questioned signature marked QA, which may be available on some existing documents such as bank instruments, day to day routine official/personal correspondence etc.

(ii) Specimen containing extensive Hindi writings and English signatures of Mrs. Sarjeevan written to dictation on several sheets (10-15 sheets) with reasonable speed in different sittings containing similar letters and their combinations as occurring in the questioned documents marked Q1 to Q22. Specimen signatures of Mrs. Sapna Rani of similar model and design as occurring in the questioned signature marked QA may also procured and sent for further examination.

5. Thereafter, petitioner moved an application for direction to PW5 to provide genuine extensive Hindi writing and English signatures of contemporary period containing similar letters and their combinations as sought by the Document Expert but that application was declined and the revision filed by the petitioner against that order was also dismissed by this Court. (CRR No.1703 of 2015 decided on 31.03.2016).

6. Learned counsel for the petitioner submits that petitioner in order to prove that letter Ex.DW22/1 is in the handwriting of Mrs. Sarjeevan PW5, wants to examine a private expert in defence. Similar request was also made before the Apex Court in special leave to appeal (criminal No.3297 of 2015) and it was ordered that examination of expert witness will dependent on the adjudication by the Trial Court. The Trial Court without looking into the fact that examination of handwriting expert is required for the just decision of the case, had declined the application by taking note of the fact that petitioner while filing special leave to appeal before the Apex Court, has

concealed material facts.

7. Learned counsel for the petitioner submits that he will take only one date to examine expert and will not delay the trial. Even, no application to recall prosecutrix (PW5) in connection with the proof of letter Ex.DW22/1 or report of expert will be moved.

8. Learned counsel for CBI has argued that during this trial, petitioner has moved one revision after the other against order passed by trial Court with the sole aim to prolonged the trial, which is at final stage and even final arguments were addressed for a long period of 2 months continuously. The petitioner had moved application dated 29.11.2014 to send specimen handwriting and signatures of PW5 Sarjeevan along with Ex.DW22/1 to FSL, Haryana, Madhuban or CFSL (CBI), Delhi. The application was allowed by learned Special Judge (CBI), Haryana at Panchkula vide order dated 06.04.2015 and the disputed letter/admitted document/specimen document were ordered to be sent to CFSL, Chandigarh with direction to send the report.

9. Not satisfied, petitioner filed revision petition against that order, which was dismissed by this Court. Report of CFSL based on the specimen signature and handwriting was received. After giving report, CFSL, Chandigarh called some more material for examination and the petitioner moved another application to direct prosecutrix (PW5) to provide documents as sought by the CFSL, Chandigarh. His application was, however, declined by the Judge, Special Court (CBI), Haryana at Panchkula vide order dated 29.04.2015. The petitioner filed revision petition against the order of Special Judge (Criminal Revision 1700 of 2015), which was

also dismissed on 31.03.2016. It was at this stage that petitioner in order to

further prolong the trail of the case, which is pending since 2008 moved another application to examine a private expert. The petitioner had himself opted for sending the disputed and specimen/admitted signatures/writing of PW5 Sarjeevan to CFSL and after the report of CFSL, Chandigarh, copy of which has been placed on file as Annexure P-20, the attempt by the petitioner to examine his expert is only to delay the trial of the case.

10. On giving a careful thought to the submission of learned counsel for the parties, I find that initially the case was registered against the petitioner by the CBI vide FIR No.RC 5(S)/2002/SIU-XV/CHG dated 12.12.2002, on the direction of this case. Challan was presented against the petitioner on 30.07.2007 and charges were framed on 06.09.2008. The persecution evidence was closed on 03.09.2013. Thereafter, petitioner examined a number of defence witnesses and his evidence stood concluded.

11. An application dated 29.11.2014 was moved by the petitioner to send letter Ex.DW22/1, along with other admitted writing/specimen writing of PW5 Mrs. Sarjeevan to FSL, Haryana at Madhuban or CFSL (CBI), Delhi. Learned Special Judge (CBI), Haryana at Panchkula ordered to send the same to CFSL, Chandigarh. The order passed by learned Special Judge (CBI), Haryana, Panchkula to send the specimen/disputed handwriting of prosecutrix to CFSL, Chandigarh was challenged by the petitioner by filing Criminal Revision No.1703 of 2015, which was also dismissed with the observation as follows:-

“The trial Court had allowed the application and had sent the documents for comparison to the nearest laboratory, which is at Chandigarh. The credibility of the Forensic

Laboratory at Chandigarh is not under cloud. The petitioner has been unable to point out any enquiry against any officers of this Laboratory. They have not been able to point out that any strictures have been passed against any of the officials. In my considered view, the attempt by the petitioner is only to delay the trial in every possible way and nothing more. There is no infirmity in the impugned order.”

12. CFSL, Chandigarh vide its report, copy of which has been placed on file as Annexure P-20, has given opinion regarding writing sent to it for comparison and has opined as follows:-

“RESULT OF EXAMINATION

The documents of this case have been carefully and thoroughly examined.

1. Inter-se examination of the admitted signatures marked A1 to A3 vis-a-vis A4 & A5 (reading Jivan) reveals that these admitted signatures are not consistent among themselves. The admitted signatures marked A6 to A11 (reading Sarjivan) appear to be of different group than rest of the admitted signatures. In view of this, genuineness of these admitted signatures could not be ascertained whether these are of one person or not. A justa-posed chart of groups of admitted signatures is given below:-

.....

2. The questioned signature marked QA when compared with the standard signatures marked AA, AB and AC shows that the standard signatures do not afford sufficient and suitable identifying writing features for basing any opinion regarding the authorship or otherwise. The writing characteristics as occurring in the questioned signature marked QA are not similarly and collectively accounted for from the supplied standard signatures being of different model and design as shown in the juxta-posed chart.

.....

3. It has not been possible to express any opinion regarding the authorship or otherwise on the question writings and signatures marked Q1 to Q12 in comparison with the supplied standard writings and signatures marked A1 to A11 and S1 to S5 for the manifest reason that all the writing characteristics as occurring in the aforesaid questioned writings and signatures are not similarly and collectively accounted for from the supplied specimen writings and signatures.”
13. In order to ascertain the consistency of the features and extent of variations, some more material was required and the petitioner moved application dated 20.04.2014 for direction to the prosecutrix (PW5) to provide the same and his application was dismissed vide order dated 29.04.2015. Against the said order, petitioner filed revision petition before this Court (CRR No.1700 of 2015) and the same was dismissed with observations as follows:-

“Extensive material that was available on the record was sent. The disputed letter is of the year 2001. It was for the defence to produce/summon any documents, when they were leading evidence, if they had any. The defence evidence had been closed. The Supreme Court had allowed the accused to examine only four more witnesses which were examined. It is not a case of the accused that they had some material which was not sent. The prosecutrix can not be summoned again and again on the asking of the accused. It is often stated that when a women is raped, she undergoes two crises, the rape and subsequent trial. First wounds her dignity, the second not less potent forces her to relive the traumatic experience and brings her in the glare of

publicity with the paraphernalia of criminal justice system focused on her.

The prosecutrix had been called 6/7 times (if not more) to the Court. It would be putting her to psychological trauma. It would even otherwise not serve any purpose. It would be futile exercise. There is no infirmity in the findings recorded by the Court below. Just as the accused is entitled to fair trial and proper opportunity, the victim also has a right to speedy trial. The trial has got delayed. It needs to be expedited.”

14. Now the question, which arises for consideration is as to what apparently is the motive of the petitioner, who after obtaining the opinion of handwriting and fingerprint expert of CFSL, Chandigarh intends to examine an expert of his own choice for the same material which has already been examined by handwriting experts of CFSL. The paid expert of petitioner has not to examine and give report on the basis of any new material. It has been impressed that while disposing of the application of petitioner to examine defence witnesses, it was observed by the Apex Court that the petitioner may examine the expert of his own choice for report on specimen handwriting and signatures of prosecutrix (PW5).

15. I find no substance in the above submission as the petitioner has already exercised his option of examining expert of his choice by moving application to send the disputed and admitted handwriting/signatures of prosecutrix (PW5) to Forensic Science Laboratory. His application was allowed and the report has been received. Now, the petitioner cannot be permitted to again opt for examining another expert on the same point to give report based on same material, which was

material has already been declined and the order passed by Special Judge (CBI) Haryana at Panchkula has attained finality on dismissal of the revision petition (CRR-1700 of 2015) decided on 31.03.2016) by a Coordinate Bench of this Court.

16. Once handwriting and fingerprints experts at CFSL, Chandigarh have examined and given report on the basis of material supplied to them, there is no reason, purpose or justification to send the same material to another handwriting expert engaged by the petitioner. Learned counsel for the petitioner has not pointed out that there is any infirmity in the report submitted by CFSL, Chandigarh which the petitioner wants to cover by examining expert of his own choice. Apparent motive of the petitioner, as manifested, is to prolong the trial which is pending for the last about 9 years, and after conclusion of prosecution evidence in the year 2013, for defence evidence for the last four years.

17. As a sequel of my above discussion, I am of the considered opinion that order passed by Special Judge (CBI) Haryana at Panchkula dated 06.06.2015 call for no interference in this revision

18. This petition has no merits.

19. Dismissed.

Trial Court is directed to conclude the trial which is at final stage, at the earliest. Copy of this order be conveyed to the trial Court.

(SURINDER GUPTA)
JUDGE

July 05, 2017
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No

