

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

**CRM No.M-8785 of 2017 (O&M)
Date of Decision: August 01, 2017**

Dharaminder Singh alias Gugni

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mandeep Kaushik, Advocate
for the petitioner.

Mr.Gaurav Garg Dhuriwala, Sr.DAG, Punjab
for the respondent-State.

Mr.Ajaivir Singh, Advocate
for the complainant.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Punjab for quashing impugned order dated 03.12.2016 and order dated 14.07.2015 passed in case FIR No.34 dated 27.02.2013 under Sections 302, 307, 427, 506, 148, 149 and Sections 25 and 27 of the Arms Act.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that Annexure P-3 is the order dated

03.12.2016 passed by learned Sessions Judge, SAS Nagar, Mohali, vide which application under Section 311 Cr.P.C. filed by the petitioner was dismissed. It is stated in the application that prosecution evidence has been closed by order and the case is fixed for leading of defence evidence. In the said case, copy of CD was taken on record and was provided to the accused by the Court. It is stated in the application that applicant wants to prove his innocence and wants to bring new facts before the Court relating to the alleged occurrence. It is also stated that the statements of prosecution witnesses namely Manjit Singh and Gaganjot Singh have already been concluded. So, the witnesses could not be confronted with the CD recording. The matter regarding CD was already pending before the predecessor Court. It is further in the application that confrontation of witnesses with the CD is very much essential.

In the reply, prosecution stated that the matter involved in the present application has already been decided in earlier applications, filed by co-accused. Now, the matter cannot be re-opened by filing present application.

Learned trial Court, after discussing in detail and by giving reasoning, dismissed the application. It is held in the order that evidence of the prosecution was closed on 28.04.2015. Thereafter, statements of accused under Section 313 Cr.P.C. have been recorded. Sanjeev Mehta witness was partly examined as DW-5 on 14.12.2015 and partly on 06.01.2016. Thereafter, his further statement was deferred as the defence intended to prove on record the CCTV camera recording. Then, various applications were filed to prove the Pen Drive and occurrence of the present case in the

laptop of Sanjeev Mehta and the same were dismissed by the Court.

Keeping in view the fact that earlier the defence wanted to prove the Pen Drive on the basis of CCTV footage and recording in the laptop, that matter has been decided upto this Court in the earlier proceedings. Now, that matter cannot be re-opened again. There is nothing on the record that from where this CD has come and what is its source. There is no hard-disk of CCTV camera. When the main source of the CD is not available, then how the witnesses can be called for confrontation to prove the contents of the CD. It is in the impugned order that the CD, which the applicant now intends to put to the prosecution witnesses, had been supplied by the other fellow accused. The prosecution has not supplied the CD to the Court. Earlier, three accused namely Deepak Kaushal, Kevin Sushant and Vishal Sharawat applied to the Court for supply of copy of Pen Drive. The then Presiding Officer, allowed the application and copies were supplied not only to the accused, who had filed the application, but even to the remaining accused.

Learned trial Court has also observed in the impugned order that during the pendency of the trial, similar application after 12.03.2015 was filed at the behest of Onkar Singh for recalling three prosecution witnesses on 06.04.2015, so as to further confront them with the Compact Disk/Pen Drive of the occurrence. That application was declined by the trial Court on 27.05.2015.

The perusal of the impugned order shows that order has been passed as per law. No illegality has been committed by learn trial Court. It looks that the accused are intentionally delaying the trial by filing such type of applications. The prosecution evidence has already been closed long time back and defence evidence has not been completed yet.

Therefore, finding no merit in the present petition, the same is dismissed.

August 01, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No