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

**Date of decision: June 02, 2017  
CRR No.993 of 2017 (O&M)**

Sant Gurmeet Ram Rahim

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

**CRR No.1484 of 2017 (O&M)**

Sant Gurmeet Ram Rahim

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

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

**Present:** Mr. S.K. Garg Narwana, Senior Advocate with  
Ms. Shweta Nahata, Advocate for the petitioner.

Mr. Sumeet Goel, Retainer Counsel  
for the respondent-CBI.

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**A.B. CHAUDHARI, J (Oral)**

**CRR No.993 of 2017 (O&M)**

By the present revision petition, the petitioner has put to challenge the order dated 09.12.2016 passed by the Special Judge (CBI), Haryana at Panchkula, whereby, applications dated 05.11.2016/21.11.2016 filed by the petitioner for directing the CBI/Prosecution to provide the copies of statements of prosecutrix PW5 and PW10 recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') by Inspector Sat Narain and then

to summon the prosecutrix PW5 and PW10 again for further cross-examination and also to summon Inspector Sat Narain to examine him before the Court, were dismissed.

In support of the petition, learned Senior counsel for the petitioner vehemently argued that, though, it is true that Inspector Sat Narain, Assisting Investigating Officer expired after passing of the impugned order and thus, the question of his cross-examination before the Court would not arise, the fact remains that there is material on record to show that he had recorded the statements of PW5 and PW10 and that is the admitted position on record by way of cross-examination of K.L. Raina who was examined before the Special Judge (CBI), pursuant to the directions issued by the Apex Court in the previous round of litigation. Learned Senior counsel has taken this Court through the relevant portion from the cross-examination of K.L. Raina to buttress his contention that indeed statements were recorded by Inspector Sat Narain, which fact has been stated by K.L. Raina. According to learned Senior Counsel, if such statements were recorded by Inspector Sat Narain, there is no reason why the prosecution should be allowed to deny the supply of the statements of PW5 and PW10 to the accused persons in the interest of fair trial. He, then contended that the CBI did not disputed the deposition of K.L. Raina before the Special Judge (CBI) about the aforesaid aspect by making his cross-examination and therefore, it is deemed that the CBI has accepted the said position. In that eventuality, the petitioner is certainly entitled to

copies of statements of PW5 and PW10 under Section 161 Cr. P.C. recorded by Inspector Sat Narain. He, then contended that it was for the first time, the petitioner came to know about the existence of statements under Section 161 Cr. P.C. recorded by Inspector Sat Narain, when on 26.11.2016, K.L. Raina was cross-examined and he stated, accordingly. He submitted that if the statements are recorded, the prosecution is bound to give copies of the statements and consequently, the Special Judge (CBI) ought to have allowed summoning of PW5 and PW10 with reference to the statements and then for further cross-examination in relation to those statements. He then cited several judgments which I think, are not required to be referred as only issue on facts are involved.

Per contra, learned counsel for the respondent-CBI vehemently opposed the petition and supported the reasons given by the trial Court. He submitted that the petitioner is merely delaying the trial which has almost come to an end and what is to be done, only is to prepare and pronounce judgment of the trial Court. But then by filing petitions after petitions, the petitioner has been procrastinating the trial and thus, putting spokes into the conduct of the trial. The petitioner is not justifying in filing the present petition that too at the fag end of the limitation for filing revision. Learned counsel for the respondent-CBI then submitted that there is specific denial with reference to Para 4 of the application in the reply filed by the CBI about recording any such statement by PW5 and PW10 by Inspector

Sat Narain. According to him, it is only the figment of imagination of the petitioner to say that such statements were indeed recorded. He, therefore, prayed for dismissal of the petition.

The fulcrum of the submission that the statements of PW5 and PW10 were recorded by Inspector Sat Narain and that those statements should therefore, be supplied to the petitioner is the part of cross-examination of K.L. Raina. It is on the basis of the said part of cross-examination, the petitioner has been laying his claim for supply of copies of those alleged statements. It is in that background, it would be appropriate to refer to the relevant cross-examination of K.L. Raina, which read thus:-

*“I had gone through the investigation conducted by previous Investigating Officer namely Shri S.S. Sandhu and his assisting IOs. I do not recollect the names of the assisting IOs. As per my knowledge, one Inspector CBI Sat Narain met the girls namely Sapna and Sarjeevan. I came to know about the same when I went through the entry in the case diary made by Inspector Sat Narain. Sat Narain Inspector had recorded whatever was told by girls to him in the case diary. Those girls included Sarjeevan but I do not remember about Sapna. I do not want to see the case diary to refresh my memory regarding Sapna. So far as I remember, the girls had told the Inspector Sat Narain that everything was not going right in the Dera and they had also told the same to me and whatever was told to me was told to Inspector Sat Narain.”*

Careful perusal of the above cross-examination shows that

there is no admission as such that Inspector Sat Narain had recorded

the statements of PW5 and PW10 under Section 161 Cr. P.C. or that after recording those statements, they were placed in the case diary. Reliance placed on the alleged admission that Inspector Sat Narain had met the girls and that he had recorded whatever was told by the girls to him in the case diary, is nothing but making of mountain out of mole. At any rate, what is stated by K.L. Raina that he came to know about Inspector Sat Narain meeting the girls. He has not admitted that Inspector Sat Narain had recorded their statements contemplated by Section 161 Cr. P.C. Recording of whatever was told by the girls in the case diary cannot partake the character of the statements under Section 161 Cr. P.C. since such statements then form the part and parcel of the challan. It is well settled that noting in the case diary cannot be treated as statement under Section 161 Cr. P.C. nor the noting in the case diary could be compelled to be produced before the Court for the purposes of cross-examination under Section 145 of the Evidence Act, 1872. Therefore, to say that there were statements recorded under Section 161 Cr. P.C. is wholly unacceptable. Not only that, contrary to what has been submitted by the learned Senior counsel for the petitioner, the CBI has in terms stated in Para 4 of the reply as under:-

*“4. The averments made in para 4, are denied being incorrect. Shri Sat Narain, Inspector/Assisting IO had not recorded the statements u/s 161 Cr. P.C. of PW-5 Sarjeewan or PW-10 Sapna. CBI has been placing progress reports before the Hon'ble Punjab and Haryana*

*High Court during the course of investigation and the Hon'ble High Court was being informed about the statements of the victims having been recorded by the different IOs/Assistant IOs, if any, during the course of investigation. However, it is wrong that any alleged statement of PW-5 Sarjeewan or PW-10 Sapna was recorded under Section 161 Cr. P.C. by Shri Sat Narain Inspector or there has been any type of concealment on the part of the CBI. As Shri Sat Narain Inspector was not a necessary witness, as such, his name was not mentioned as a witness in the list of witnesses.”*

There is no reason for this Court to assume that the statements contemplated by Section 161 Cr. P.C. were indeed recorded by Inspector Sat Narain. Thus, the aforesaid issue on fact must be answered against the petitioner. The trial Court has also stated about it as follows in Para 10 of its order:-

*“xxxx. Once it has come out that no such alleged statements of prosecutrix PW-5 and PW-10 were recorded by Inspector Sat Narain, then any question of issuing directions to prosecution/CBI to supply the same to the accused does not arise at all. Moreover, reliance placed by learned counsel for the applicant-accused upon the deposition/statement of CW-1 K.L. Raina, who has been examined as court witness in compliance of directions passed by the Hon'ble Supreme Court, to contend that Inspector Sat Narain recorded statements of PW-5 and PW-10 under Section 161 Cr. P.C., is mis-conceived one simply because CW-1 K.L. Raina has nowhere stated so in his deposition. Rather CW-1 K.L. Raina has deposed that as per his knowledge, one Inspector Sat Narain met the*

*girls namely Sapna and Sarjeevan, which does not mean that Inspector Sat Narain had recorded any statement of either of these two prosecutrix.”*

In the result, I find no merit in the present revision petition following order is passed:-

**ORDER**

- (i) CRR No.993 of 2017 is dismissed;
- (ii) Interim order dated 16.03.2017 stands vacated.
- (iii) Observations made in this order shall not cause any prejudice to the petitioner before the trial Court.

**CRR No.1484 of 2017 (O&M)**

Reply filed by the learned counsel for the respondent-CBI today in Court, is taken on record.

This revision petition is directed against the order dated 01.04.2017 by which the application dated 18.03.2017 under Section 311 Cr. P.C. filed by the petitioner to summon and examine S.S. Sandhu, the then DSP CBI/Investigating Officer under whom Inspector Sat Narain was working as Assisting Investigating Officer as Court witness for his further cross-examination along with case diary, was dismissed by the Special Judge (CBI), Haryana at Panchkula.

In support of the petition, learned Senior counsel for the petitioner vehemently argued that the investigation was taken over initially by S. S. Sandhu, DSP Investigating Officer who conducted the investigation upto June 2003. From July 2003 to June 2004, the investigation was taken over by K.L. Raina, DSP Investigating Officer and lastly, the same was conducted by Satish Dagar who was the last Investigating Officer. He submitted that Inspector Sat Narain was

working as Assisting Investigating Officer with S.S. Sandhu upto June 2003. Since Inspector Sat Narain expired in February 2017 and since S.S. Sandhu knew that Inspector Sat Narain had recorded the statements of PW5 and PW10 under his supervision, the petitioner would be entitled to further cross-examine Shri Sandhu with reference to the statements recorded by late Sh. Sat Narain who was assisting him and therefore, it is necessary to recall him for further cross-examination and he should be asked to attend the Court along with case diary upto June 2003. Learned Senior counsel then submitted that application (Annexure P-14) under Section 311 Cr. P.C. was filed because the petitioner came to know about the recording of statement of PW5 and PW10 by Inspector Sat Narain, on 20.11.2016 only when K.L. Raina was cross-examined. He, therefore, submitted that it is necessary to call S.S. Sandhu for further cross-examination with reference to those statements under Section 161 Cr. P.C. recorded by Inspector Sat Narain.

Per contra, learned counsel for the respondent-CBI supported the impugned order made by the Special Judge (CBI) so also the reasons recorded therein. He submitted that S.S. Sandhu was examined and cross-examined in the present trial way-back in the year 2010 and therefore, it can be inferred that the petitioner is really interested in procrastinating the trial which has almost come to an end and what is to be done is only to prepare and pronounce the judgment. He, therefore, prayed for dismissal of the petition.

While dealing with the submissions made by learned Senior counsel for the petitioner in CRR No.993 of 2017 above, I have given detailed reasons in respect of the alleged statements of PW5 and PW10 allegedly recorded by Inspector Sat Narain holding that no such statement contemplated by Section 161 Cr. P.C. were ever recorded by Inspector Sat Narain. Apart from that S.S. Sandhu who was Investigating Officer was examined and cross-examined way-back in the year 2010/2011 and as rightly stated by the Special Judge (CBI), he had stated that his Assisting Investigating Officer had not recorded the statements (contemplated by Section 161 Cr. P.C.). The foundation of the plea for filing application (Annexure P-14) under Section 311 Cr. P.C. was the alleged statements under Section 161 Cr. P.C. by PW5 and PW10 allegedly recorded by Inspector Sat Narain and I have already held that no such statements contemplated by Section 161 Cr. P.C. were ever recorded or existed. The prayer, therefore, for summoning S.S. Sandhu with reference to those alleged statements will have to be rejected. Apart from that I agree with the following reasons by the trial Court in Para 6:-

*“xxxx. Not only this, it would not be out of context to mention here that PW-11 S. S. Sandhu in his cross-examination has already stated that as far as the recollected, his assisting IOs had not recorded the statements of PW-5 Sarjeevan and PW-10 Sapna and therefore, prayer of the applicant-accused to recall PW-11 S.S. Sandhu for further cross-examination is also misconceived and without any justification. The testimony, of*

*PW-1 S.S. Sandhu was recorded way back on 04.12.2010 and he was cross-examined at length on that day and therefore, no case to summon S.S. Sandhu, PW-11 as court witness or to recall him for further cross-examination is made out at this stage.”*

In the light of the above discussion, I find no merit in the present petition also. In the result, I make the following order:-

**ORDER**

- (i) CRR No.1484 of 2017 is dismissed.
- (ii) Observations made in this order shall not cause any prejudice to the petitioner before the trial Court.

**(A.B. CHAUDHARI)**  
**JUDGE**

**June 02, 2017**

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No