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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/12/2018 17:04
I attest to the accuracy and
authenticity of this document

CRM-M-52168-2018 (O/M)
Date of decision : 10.12.2018

Satish Kumar Padam and another Petitioner (s)

Versus

Central Bureau of Investigation (ACB) Sector 30 Chandigarh
..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Mehndiratta, Advocate,
for petitioners.

Mr. Sumeet Goel, Senior Standing Counsel,
for CBI.

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KULDIP SINGH, J. (ORAL)

Heard. Reply not filed.

The petitioners seek direction under Section 482 Cr.P.C. for setting aside order dated 25.10.2018 (Annexure-P-7), passed by learned Special Judge, CBI Court, Chandigarh, whereby applications filed by petitioners dated 10.10.2018 (Annexure-P-3 and Annexure-P-3-A), for deciding applications 25.9.2018 (Annexure-P-2 and Annexure-P-2-A), have been dismissed.

Perusal of applications dated 25.9.2018 (Annexure-P-2 and Annexure-P-2-A), shows that petitioners/accused claim that evidence produced by CBI regarding voice samples, is inadmissible on the ground that voice samples were taken by CBI, while they were in custody, which is in violation of their Fundamental Rights under Article 20 (3) of Constitution of India. Therefore, it should be discarded. The applications (Annexure-P-3 and Annexure-P-3-A) have been dismissed by learned Special Judge, CBI Court, Chandigarh, vide order dated 25.10.2018 (Annexure-P-7).

It is stated that trial Court has taken view that these applications are to be decided after hearing arguments in main case. It is stated that case is fixed for arguments.

I am of the view that whether a particular piece of evidence is to be relied upon or not, is to be decided at the time of arguments and not in bit and bytes at earlier stage. If some evidence has been produced by prosecution, accused has always right to say that said evidence is not admissible in evidence and cannot be relied upon. Before arguments, filing of applications and insisting for decision on same means that accused wants filtering of evidence by insisting for decision of application before final decision. If this is allowed, more similar applicants can come and seek decision of application regarding other evidence. I am of the view that if any evidence has been produced by prosecution and is sought to be relied upon, matter is to be decided at the time of final decision. Therefore, there is no illegality or infirmity in impugned order dated 25.10.2018 (Annexure-P-7), passed by trial Court. Let petitioners raise said issue at the time of arguments and let trial Court decide same alongwith main case.

With abovenoted observations, petition is dismissed.

(KULDIP SINGH)
JUDGE

10.12.2018
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No