

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

Sr. No.201

CR-8629-2015 (O&M)

Date of decision: 03.07.2019

Aaj Tak and others

....Petitioners

versus

Dr. Ranjeet Khanna and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Rohit Sud, Advocate
for the petitioners.

Mr. S.S. Swaich, Advocate
for respondent Nos.1, 3 and 4.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 30.11.2015 passed by the Civil Judge (Junior Division) Khanna (for short – the Trial Court) through which last opportunity was granted to the petitioners to produce the concerned news reader before the Central Forensic Science Laboratory, Chandigarh (for short – the Laboratory) for recording of his/her voice sample and that if he/she is not produced then an adverse inference would be drawn against them.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondents No.1 to 4 filed a suit seeking therein to recover from the petitioners and the proforma respondents an amount of ₹2,02,40,000/-. Such claim was based primarily on the basis of an alleged wrong telecast made by the petitioners which according to respondents No.1 to 4 was defamatory. The grounds on which

such claim was based are not being referred to as the same are not found relevant for the purpose of deciding the present petition.

On being put to notice, the petitioners appeared before the Trial Court and contested the aforesaid suit. While the matter was pending before the Trial Court, an application was filed by respondents No.1 to 4 seeking the issuance of a direction to the petitioners to produce the concerned news reader before the Laboratory at Chandigarh to give his/her voice samples. On the other hand, the petitioners filed an application seeking therein the issuance of a direction to respondents No.1 to 4 to get the CDs relied upon by them examined by the Laboratory at Chandigarh so that its authenticity could be established.

Both the aforesaid applications came up for hearing before the Trial Court on 27.04.2015 on which date learned counsel appearing for respondents No.1 to 4 stated that he had no objection if the aforesaid CDs are sent to the Laboratory at Chandigarh for verifying its authenticity. At the same time, learned counsel appearing on behalf of the petitioners also suffered a statement that he also had no objection in giving before the Laboratory the voice sample of the concerned news reader.

On the basis of the above statement made by the respective learned counsels, both the applications filed by either party were allowed. Thereafter, respondents No.1 to 4 produced the CDs, on which they were relying, before the Laboratory at Chandigarh. However, the petitioners made an application to the Director of the Laboratory at Chandigarh through which it was submitted that they had no objection for giving the voice sample of the concerned news reader but they would do so only after the authenticity of the CDs, being relied upon by respondents No.1 to 4, was

established.

The Laboratory at Chandigarh gave its report on the CDs produced by respondents No.1 to 4 after which the matter was taken up by the Trial Court wherein it was brought to the notice of the Court that the petitioners had failed to abide by their statement made by them before the Court as they did not produce the concerned news reader for giving of the voice sample. On being apprised of such fact, the Trial Court, through its order dated 30.11.2015, granted last opportunity to the petitioners to produce the concerned news reader before the Laboratory at Chandigarh on 18.12.2015 for recording of his/her voice sample. It was further observed that in case the petitioners failed to comply with the direction of the Court an adverse inference would be drawn against them. Such order of the Trial Court is challenged in the present proceedings.

Learned counsel for the parties have been heard.

A perusal of the record reveals that respondents No.1 to 4/plaintiffs had filed an application before the Trial Court seeking therein issuance of a direction to the petitioners for producing the concerned news reader, employed by petitioners No.1 and 2, for giving his/her voice sample at the Laboratory at Chandigarh. At the same time, the petitioners filed an application seeking issuance of appropriate directions to respondents No.1 to 4 to produce the CDs being relied upon by them before the Laboratory at Chandigarh so that their authenticity could be verified. Both the applications came up for hearing before the Trial Court on 27.04.2015 and a perusal of the order passed by the Trial Court on that date reveals that learned counsels appearing for both parties agreed that both applications filed by either side be allowed. On the basis of such agreement expressed by

learned counsel appearing for the parties, the Trial Court allowed both the aforesaid applications. Thereafter, though respondents No.1 to 4 produced the CDs before the Laboratory at Chandigarh and got the same examined, the petitioners failed to abide by their undertaking given by them before the Trial Court forcing the Trial Court to pass the impugned order on 30.11.2015 granting them last opportunity to do the needful and in the absence thereof putting a further rider that in case they failed to comply with the order, adverse inference would be drawn against them. In the light of these undisputed facts, no error is found in the order impugned before this Court directing the petitioners to comply with their undertaking given by their counsel especially when such statement made by its counsel before the Court was neither challenged or disputed at any time before the Trial Court nor before this Court. Rather, the backing out of the petitioners from their statement made on their behalf by their counsel is not appreciated.

In view of the above, no merit is found in the present petition and the same is hereby dismissed.

It is, however, clarified that giving of the voice sample by the concerned news reader of the petitioners would not foreclose any objection to be raised by the petitioners to its admissibility in evidence and that it would be open to both parties to raise all available pleas that they may have in law with regard to the evidentiary value of the above voice sample.

(DEEPAK SIBAL)
JUDGE

July 03, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No