

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-28028-2018(O&M)

Date of Order:10.07.2019

Satpal Goel (since deceased) through Prem Goel

..Petitioner

Versus

Surinchala Handa

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Promila Nain, Advocate, for the petitioner  
Mr. Pankaj Bhardwaj, Advocate, for the respondent.

ANIL KSHETARPAL, J.

Petitioner-complainant has filed this petition challenging an order passed by learned Judicial Magistrate Ist Class, Jalandhar, dated 26.04.2018, dismissing application filed by the complainant under Section 294 Cr.P.C. for admission or denial of the documents from the accused.

As per the case of the complainant, following documents are required to be admitted or denied by the accused:-

- “(a) *Loan application form duly signed by accused and submitted to Punjab National Bank for obtaining loan;*
- (b) *Legal Opinion given by Manmohan Sharma, Advocate, on the basis of which loan was granted to accused and the report was submitted to the bank by accused;*
- (c) *Affidavit allegedly executed by Prem Goel in compliance to the report of Manmohan Sharma, Advocate, which the accused submitted to Punjab National Bank for securing loan;*

(d) *Copy of site plan (Ex.CW3/A exhibited in preliminary evidence), showing the place of getting the outlet from BPCL Jalandhar, allegedly bearing signatures of Satpal Goel showing alleged partitioned of property which the accused submitted to BPCL while getting the outlet allotted to her.”*

Learned trial court dismissed the application on the basis of protection granted to the accused under Article 20(3) of the Constitution of India while observing that no person accused of any offence can be compelled to be a witness against himself. The principle against self incrimination is one of the important safeguard provided by the Constitution of India is integral part of criminal jurisprudence of the country.

This court has heard learned counsel for the parties at length and with their able assistance gone through the paper book.

Learned counsel for the petitioner while relying upon a judgment passed by Hon'ble Supreme Court in the case of **Shamsher Singh Verma vs. State of Haryana, 2016 (1) RCR (Crl.) 167** has contended that the learned trial court erred in dismissing the application. She submitted that it is not necessary that the documents should be admitted or denied by the accused himself, these can be admitted or denied by counsel for the accused.

On the other hand, learned counsel for the respondent has submitted that Section 294 Cr.P.C. has no application and if the accused or his counsel is directed, the same would amount to self-incrimination which is not permissible. He further submitted that the case is at pre-charge evidence and, therefore, Section 294 Cr. P.C. is not applicable.

This court has carefully read the judgment passed by the

Hon'ble Supreme Court in the case of **Shamsher Singh Verma(supra)**. In the aforesaid case, it was the accused who had filed an application for getting exhibited compact disc and to get the same proved from Forensic Science Laboratory. So, the fundamental difference in the aforesaid judgment and the present case is that here the complainant, in other word, the prosecution is making an effort to call upon the accused to admit or deny the documents sought to be proved, whereas in the aforesaid case it was the accused, who had filed an application. Still further, the Hon'ble Supreme Court allowed the application only to play the compact disc in question to enable the public prosecutor to admit or deny and to get it sent to the Forensic Science Laboratory by the defence. Thus, the aforesaid judgment is not applicable to the facts of the present case.

Article 20(3) of the Constitution of India provides that no person accused of an any offence shall be compelled to be a witness against himself. Obviously, the Constitutional scheme provides for a safeguard to the accused against self-incrimination.

Learned counsel for the petitioner has further relied upon an unreported order passed in CRM-M-33397-2010 (**Mohan Singh and another vs. State of Punjab and another**), decided on 19.12.2013. The aforesaid order cannot be held to be laying down as a ratio decidendi the preposition as is sought to be contended by learned counsel for the petitioner. In the aforesaid case, there was a civil litigation between the complainant side and accused with regard to validity of the Will. The accused had appeared as a witness and made statements in civil Court. Prosecution had filed application under Section 294 Cr.P.C. calling upon the accused to admit their statements made in the civil Court. The

statements made by the accused in the aforesaid case has already been exhibited in the criminal proceedings. In those circumstances, a Co-ordinate Bench held that such application is not hit by Article 20(3) of the Constitution of India. Thus, the facts of the case in the order referred to above are entirely different.

In these circumstances, this court does not find any requirement of going into the other objections of learned counsel for the respondent.

Hence, the present petition is dismissed.

**10<sup>th</sup> July, 2019**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

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|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether reportable        | : Yes/No |