

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

**CRM-M-50468-2018
Date of decision: 27.09.2019**

Daya Nand Saini and another

...Petitioners

Versus

U.T., Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rakesh K. Kaundal, Advocate
for the petitioners.

Mr. Rajiv Sharma, Addl. P.P., U.T., Chandigarh.

Ms. Kaavya Jariyal, Advocate for
Mr. Sumeet Goel, Advocate
for respondent No. 5-CBI.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for issuance of directions to respondent Nos. 1 to 4 to entrust the investigation of FIR No. 476 dated 25.08.2008, registered under Sections 406, 467, 468, 471 and 120-B of the IPC at Police Station Sector 39, U.T., Chandigarh to some other independent investigating agency like CBI.

Reply, filed by way of affidavit of DSP, EOW, U.T., Chandigarh, on behalf of respondent Nos. 1 to 4, is on record and as per the same, after conducting the investigation, the challan was submitted on 25.03.2009 before the Illaqua Magistrate and at the time of submission of challan, it was mentioned that the original document will be submitted in the Court through supplementary challan.

Learned counsel, appearing for U.T., Chandigarh, has submitted that the prosecution has moved an application before the

Additional Chief Judicial Magistrate, Chandigarh for handing over the original record for sending the same to CFSL, however, on 04.01.2018, the same was dismissed by observing that the original record is lying in the record room and the same cannot be provided for sending to CFSL and if the same is required for the purpose of comparison, the prosecution can move a fresh application for seeking photograph of the documents or other relevant material.

Learned counsel for U.T., Chandigarh has further argued that in fact it is the requirement of CFSL that the original record be submitted for the purpose of comparison and they cannot compare with the photographs as ordered by the Additional Chief Judicial Magistrate on 04.01.2018.

Learned counsel for U.T., Chandigarh has referred to application dated 13.11.2019, filed by SI, E.O. Wing and another application dated 03.01.2018, filed before the Additional Chief Judicial Magistrate to submit that record of the cases as reflected in these two applications is required to be sent to CFSL for the purpose of comparison and obtaining a report thereafter.

Learned counsel for U.T., Chandigarh further submitted that even subsequently, application dated 19.04.2018 and 05.04.2018 were also filed which are pending before the Additional Chief Judicial Magistrate, Chandigarh.

After hearing learned counsel for the parties, I found that the prosecution is unable to submit the supplementary challan unless a report from the CFSL is received and as per the requirement of CFSL, until and unless original record is sent for comparison, the same cannot be done and the report cannot be submitted.

In view of the above, this petition is disposed of.

The Chief Judicial Magistrate, Chandigarh, before whom the case is pending as stated in aforesaid applications as well as Incharge of the Record Room are directed to send the entire record after properly page marking it to CFSL, Chandigarh through a special messenger and the Director, CFSL, Chandigarh is directed that on receiving the same, a receipt will be issued for obtaining the record and after comparison, the same will be returned back by the CFSL to Court concerned.

The Additional Chief Judicial Magistrate and the Incharge, Record Room are further directed to do the needful within a period of one month from today and report of the CFSL be submitted to the Court within a period of three months thereafter.

27.09.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No