

CRM-M-54145 of 2018

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

CRM-M-54145 of 2018
Date of decision: 07.05.2019

Paramjit Saroye and others

.....Petitioners

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Surinder Sharma, Advocate, for the petitioners.
Mr. Amandeep S. Gill, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. petitioner-accused has laid challenge to order dated 15.11.2018 (Annexure P-2) of the revisional Court whereby their revision was dismissed upholding order of the trial Court dated 02.07.2018 (Annexure P-1) allowing application of the prosecution under Section 311 Cr.P.C.

Briefly, petitioners are facing trial for two different incidents of the same date registered vide FIR No.117 dated 09.07.2012 under Sections 452, 427, 506 IPC at Police Station Lambra, District Jalandhar, and FIR No.139 dated 09.07.2012 under Sections 323, 325, 341, 34 IPC at Police Station Bhargo Camp., District Jalandhar, got registered by complainant Naresh Kumar. During trial in case FIR No.117 dated 09.07.2012 complainant moved application under Section 311 Cr.P.C. that he had recorded entire occurrence through his mobile phone and thereafter prepared a DVD/CD. He wants to produce the same in Court, which was allowed. Consequently, DVD/CD was played in Court and trial Magistrate

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thereafter recorded a specific finding that faces of accused Vikky Saroya and Ravi Saroye were not clear in the videography. Consequently, DVD/CD was taken back by the complainant. Thereafter, prosecution moved similar application under Section 311 Cr.P.C. to produce same DVD/CD in case FIR No.139 dated 09.07.2012, which has been allowed vide impugned order dated 02.07.2018 and revision of the petitioners against the same has been dismissed vide impugned order dated 15.11.2018.

Learned counsel for the petitioners *inter alia* contends that both the Courts below have failed to appreciate that alleged incident which is subject-matter of FIR No.139 dated 09.07.2012 was never videographed by the complainant, rather DVD/CD sought to be produced pertains to the incident which is subject-matter of FIR No.117 dated 09.07.2012. Therefore, production of the same would be a futile exercise.

On the other hand, learned State counsel pleaded the legality and validity of the impugned orders.

Having given thoughtful consideration to the rival submissions made by both the sides, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

This Court is unable to understand that why the petitioners are afraid of, if the alleged DVD/CD, so to be produced by the prosecution, does not pertain to the incident which is subject-matter of FIR No.139 dated 09.07.2012. Both the Courts below have observed that petitioners would definitely get a chance to cross-examine the prosecution witnesses and rebut the evidence, if any, given against them through DVD/CD so to be produced and played in Court. The above observation definitely has protected the

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rights of the petitioners.

I have gone through the impugned orders and find no illegality or perversity in the same.

Dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

May 07, 2019

R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No