

**102-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.5741 of 2018 (O&M)
Date of decision : 21.05.2019**

Satish Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Shashi Bharat Bhushan, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. S.S.Narula, Advocate
for the complainant.

AJAY TEWARI, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 19.07.2016 (Annexure P-2) passed by the JMIC, Hansi (Hisar) alongwith its subsequent proceedings in F.I.R. No.214 dated 24.02.2017 registered under Sections 120-B IPC and Sections 10/12/13 (1) (D), 7/8 of the Prevention of Corruption Act, 1998 at Police Station Hisar Civil Lines, District Hisar.

Brief facts are that on an application was moved by the Additional Superintendent of Police, Hisar before the Duty Magistrate on 19.07.2016 wherein he prayed that he had received case No.479-Special dated 02.06.2016 for investigation. During the inquiry of which the

petitioner was joined. He further prayed that he was being presented in the Court and the Court was requested to obtain the consent of the petitioner to be produced before the Forensic Lab Madhuban for obtaining necessary voice samples so that the inquiry could be completed. On that the following order was passed (Annexure P-2):-

“An application for producing above person namely Satish Kumar P.A. from DC Office, Hisar, produce before forensic lab Madhuban (Karnal) for obtaining necessary voice samples is moved by Inspector Umed Singh from P.S. City Hansi at 4.20 p.m. being Duty Magistrate. It is submitted a DD no.33 dated 6.6.16 is registered at P.S. City Hansi for due investigation, prior to registration of formal case, the voice samples of the person named above are to be obtained as per the recommendation of ASP, Hisar.

Submissions heard. Considered. Statement of Satish son of Harlal aged 52 years, r/o 102 Sector 14 Hisar is also recorded to the effect that he has ready to render himself for obtaining requisite voice samples. In view of the application as well as the interest of justice, application in hand stands allowed. Papers be sent back to the court concerned.”

Aggrieved against the above order, the present petition has been filed.

The precise contention of learned counsel for the petitioner is that at that time the petitioner was mislead into giving his voice samples and he had no idea that his voice samples would be used to implicate him. As per him this would amount to compelling the petitioner to be witness against himself and is not permissible.

On the other hand the counsel appearing for the respondents have argued that there is no material on the record which would justify the allegation that the petitioner was misled in any manner. They further pointed out that this is not a case where the petitioner was compelled to give his voice samples. He could have refused but he consented and have prayed that the present petition be dismissed.

In my opinion, the arguments of the counsel for the respondents have to prevail. Apart from a bald averment that the petitioner was misled into giving his voice sample, there is no material on the record which may justify this conclusion. No doubt no person can be compelled to bear witness against himself but this protection would not be available to a person who volunteers give evidence in his own case. An accused may appear as a defense witness and if during his cross-examination the public prosecutor unable to elicit, damaging admissions he can not turn around and say that he has been forced to bear witness against himself.

In the circumstances, the petition is dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

21.05.2019

pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No