

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

**CRM-M-32041-2018(O&M)  
Date of decision:-5.3.2020**

Anjlee Sharma and another

...Petitioners

Versus

State of Punjab and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE H.S. MADAAN**

**Present** : Ms.G.K. Mann, Advocate  
for the petitioners.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr.Varun Issar, Central Government counsel  
for Union of India – respondent No.4.

Mr.G.S. Brar, Advocate  
for the accused.

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**H.S. MADAAN, J.**

Briefly stated, the facts of the case are that one Chandrish Kalia working as Inspector in Excise Department had committed suicide. He had left behind a suicide note in which he blamed his father-in-law – Manohar Lal Sharma, brothers-in-law – Vikram Sharma, Akshay Sharma and Khushdeep Singh from Bathinda besides his wife Neetu Sharma for forcing him to take the extreme step.

Formal FIR No.145 dated 8.10.2014 for an offence under

Section 306 IPC was registered at Police Station Sirhind, District Fatehgarh Sahib. On completion of investigation, the accused were challaned. During the course of trial, the prosecution witnesses Anjlee Sharma and Kartik Kalia through their counsel had filed an application for recording their statements through commission by way of video conferencing stating that they are currently residing in Canada; that PW Anjlee Sharma is an old aged lady suffering from various ailments relating to old age; she had suffered spinal injury due to which she is bedridden, as such she is unable to undertake a long journey to India.

Though the application was contested on behalf of accused stating that earlier similar application filed by the complainant on 26.5.2017 was dismissed as withdrawn wherein address of the PWs was mentioned as that of USA, whereas in the second application they had given their address of Canada. It was denied that PW Anjlee Sharma is suffering from any medical problem. Rather it was contended that the only purpose of moving application was not to come to India and face cross-examination on behalf of the accused.

After hearing arguments, learned Additional Sessions Judge, Fatehgarh Sahib vide order dated 12.3.2018 allowed the application finding that depositions of Anjlee Sharma and Kartik Kalia were quite crucial and important. However, the prosecution was directed to comply with certain conditions, which are detailed in the order dated 12.3.2018. SHO, Police Station Sirhind was summoned in the Court to furnish the compliance report. However, necessary compliance could not be made. The trial Judge vide the impugned order dated 9.7.2018 observed that despite having been granted almost three opportunities

nothing had been placed on record to convince the Court that the prosecution through SHO, P.S. Sirhind has taken any noteworthy steps towards compliance with order dated 12.3.2018. The order dated 12.3.2018 was withdrawn and the prosecution was directed to adduce its evidence at own responsibility for the next date of hearing. The operative part of the impugned order dated 9.7.2018 for ready reference is being reproduced as under:

*It is obligation of the prosecution to adduce evidence in order to substantiate its version before the Court. It is not the duty of the Court to procure the presence of the witnesses. At the most the prosecution can take assistance of the court and the court can issue suitable process as per requirement and need of the situation to facilitate the presence of the witnesses. Whatever maximum assistance the court could have granted, has already been granted to the prosecution. The prosecution seems to have adopted a very half hearted approach in proving its case before the court, in rendering compliance with the order of the court. The lack luster approach on the part of the prosecution has resulted into uncalled for prolonged delay in disposal of the case.*

*In these circumstances, this court is of the confirmed and considered view that no further assistance deserves to be granted to the prosecutor who is now left at its own liberty and responsibility to cause appearance of its witnesses before the Court. The benefit of the order dated*

*12.3.2018 stands withdrawn.*

Both the witnesses i.e. Anjee Sharma - mother and Kartik Sharma - brother of deceased through their attorney have approached this Court by filing the present petition under Section 482 Cr.P.C. for quashing of the order dated 9.7.2018 with a further direction to the trial Court, Senior Superintendent of Police, Fatehgarh Sahib – respondent No.2 and SHO, Police Station Sirhind, Fatehgarh Sahib – respondent No.3 to record the statements of petitioners through video conferencing as per order dated 12.3.2018.

Notice of the petition was issued to the respondents. The official respondents are being represented by Deputy Advocate General, Punjab, whereas Union of India is being represented by Central Government counsel and accused by separate counsel.

The opposition to the petition is coming from the side of private respondents i.e. accused facing trial.

I have heard learned counsel for the parties besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

Rules of procedure are handmaid of justice. The Courts are there to impart substantial justice and for sometimes a very rigid technical approach in view of the procedural law may not be adopted.

Both the prosecution witnesses are stated to be very important and crucial witnesses for the prosecution to prove its case that he deceased used to be harassed by his wife and members of his in-laws family during his life time and fed up with such harassment and maltreatment, he ended his life by committing suicide. Both these witnesses are residing abroad. Considering their request and sufficient convincing reasons to be there, such request for recording of their statements through commission by way of video conferencing had been allowed by the trial Court, subject to several conditions. The local police authorities have not complied with such conditions so far. There is nothing to show that there has been any intentional or deliberate delay on the part of the police authorities in ensuring necessary compliance. The trial Court has withdrawn the order allowing recording of statements of petitioners through video conferencing.

In my view the trial Court should have adopted a flexible approach and taken sympathetic and realistic view in the matter granting some more time to the police authorities and the witnesses to comply with the conditions. If for any reason the impugned order is allowed to continue that would mean that important witnesses for the prosecution may not be able to appear in the Court to get their statements recorded, in that way the accused would get benefit by default and the prosecution case shall suffer for no intentional lapse or fault thereof.

Accordingly, the petition has merit. The same is accepted. The impugned order is set aside and the order dated 12.3.2018 passed by the trial Court is restored. A direction is issued to the official respondents to ensure necessary compliance of the terms and conditions

with all the seriousness and promptitude and the trial Court shall grant sufficient time to them for that purpose say at least of three months.

**5.3.2020**  
**Brij**

**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**