

112 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SMRITI
2021.01.22 16:55
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CRR-2072-2019 (O&M)
Date of Decision: 20.01.2020

Vinod Kumar and another ... Petitioners
vs.
State of Punjab .. Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : None for the petitioners.

VIVEK PURI, J.

The present revision petition has been preferred against the order dated 02.08.2019 passed by learned Judge, Special Court, SAS Nagar (Mohali), vide which request of the petitioners to send the second sample for chemical analysis was declined.

Today is 6th successive date when none appeared on behalf of the petitioners.

The petitioners are facing trial for having committed offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'). A perusal of impugned order indicates that the petitioners have moved an application for drawing sample from the bulk for sending the same to chemical examiner for analysis/re-testing.

The Court below had placed reliance on the judgment titled as **Thana Singh vs. Central Bureau of Narcotics, 2013 (1) RCR (Criminal) 861 SC**, to conclude that the request of re-testing/re-sampling cannot be entertained under the Act as a matter of course and these may, however, be permitted in extremely exceptional circumstances, for cogent reasons to be recorded by the Presiding Judge. It has also been observed that the Act does not confer any right upon the accused to send another representative sample

of the contraband to the same or other public analyst for analysis and report.

It has further been observed that there was no necessity for re-testing on the grounds as given in the application as there was nothing to suggest that report of FSL was vague or there was any ambiguity therein. It was also observed by the Court below that there was nothing to suggest that the first sample sent for testing was destroyed or the quantity was insufficient for analysis.

The observations recorded by the Court below cannot be termed to be perverse or suffering from any illegality, irregularity or error which may warrant interference by this Court.

Dismissed.

(VIVEK PURI)
JUDGE

20.01.2020
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No