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

**CRM-6439-2021 and/in
CRM-M-8447-2021 (O&M)
Date of Decision:05.03.2021**

Sarwan Kumar

.....Petitioner

Vs.

The Director, CBI, UT, Chandigarh

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present:- Ms.Kulwant Kaur, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

CRM-6439-2021

By this application, the applicant (petitioner in the accompanying petition), seeks to place on record a copy of the testimony of PW15 before the trial court, i.e. the statements recorded on 23.10.2019 and 18.01.2021.

Since no notice has been issued in the accompanying petition as yet, none is required to be issued in this application, which is consequently, allowed the aforesaid statements (not certified copies) are ordered to be taken on record, subject to all just exceptions.

CRM-M-8447-2021

By this petition, the petitioner seeks a direction for redressal of his grievance, i.e. an alleged illegality committed in court proceedings during cross-examination of PW15, namely Anuj Kumar, by dictating a name other than the one stated by aforesaid witness (as alleged).

He further seeks substitution of the name “Prem Singh Bisht” stated to have been spoken by PW15, in place of “Partap Singh Bisht”, as dictated by the learned Special Judge, CBI, Chandigarh.

From Annexure P-7, as has been taken on record today, learned counsel for the petitioner points to the first two lines of the statement which is stated to be part of the examination-in-chief of PW15, Anuj Kumar, which reads follows:-

“Thereafter, on the directions of Shri R.C.Khatri, Inspector, complainant Shri Prem Singh Visht, produced currency notes totalling for.....”

(Emphasis applied only by
this court in today's order)

She therefore submits that since, even on 18.01.2021, the said witness had referred to the complainant as 'Prem Singh Bisht' and not 'Partap Singh Bisht', and that even thereafter on 21.01.2021 he had actually taken the name 'Prem Singh Bisht', whereas it was recorded as 'Partap Singh Bisht' by the learned trial court, therefore the statement of the aforesaid witness to that effect needs to be corrected.

This court having disposed of CRM-M-7162-2021 on 15.02.2021, by observing to the effect that any oral observation of the trial court cannot be commented upon by this court, thereafter the petitioner filed an application (copy Annexure P-4) before that court, seeking the correction as is now sought, on which the order Annexure P-5, dated 16.02.2021, has been passed by that court, stating therein that the said witness first uttered the name 'Prem Singh Bisht' and subsequently the name 'Partap Singh Bisht', further stating that he had earlier given the name of 'Prem Singh Bisht' inadvertently and therefore, the court had dictated the name 'Partap Singh Bisht' and not 'Prem Singh Bisht', (with the cross-examination of PW15 thereafter deferred).

It has also been noticed in the 'impugned order' that the objection of counsel for the accused, to the effect that the name 'Partap Singh Bisht' has been incorrectly recorded by the trial court, was not a sustainable objection because the witness had also categorically stated in his deposition that Prem Singh Bisht was not accompanied with Partap Singh Bisht. Hence, the implication in the mind of the trial court seemingly being that there were two persons, by the names of Prem Singh Bisht and Partap Singh Bisht, and the witness had erroneously stated 'Prem Singh Bisht' at the first instance, whereas he corrected it to 'Partap Singh Bisht' later.

Learned counsel for the petitioner however denies the same and submits that he had categorically stated only 'Prem Singh Bisht' on 21.01.2021, which was the same name as he had also stated on 18.01.2021.

Having considered the matter, it is to be observed that obviously, since statement dated 18.01.2021 is also a part of the trial court record, the implication of that name being used instead of 'Partap Singh Bisht', as is contended to have been used on 21.01.2021, would be duly noticed by the trial court at the time of appraising the evidence to determine the guilt, or otherwise, of the petitioner, alongwith all other evidence led by the prosecution and the defence.

It has also been stated by the learned Special Judge, in his order dated 16.02.2021, that the statement of the aforesaid witness, PW15, had been duly signed by the witness after seeing and understanding it (and therefore the question of any erroneous or incorrect recording of the said statement would obviously not arise).

As regards preserving of the video recording of the proceedings before the trial court on 27.01.2021, as submitted by learned counsel, naturally, if such video recording is still available, it would be kept preserved, but normally it is only a video recording and not an audio recording, and if that is so I would see no purpose of that prayer made, though no comment is made because if such video and audio recording is available, it should be preserved by the trial court, for reference at the relevant time of appraisal of evidence if necessary, though of course the entire sequence of events has already been enumerated hereinabove, has been discussed by the learned trial court even in its order dated 16.02.2021.

With these observations, this petition is dismissed.

March 05, 2021

dharamvir/dinesh//

**(AMOL RATTAN SINGH)
JUDGE**