

Tejinder Singh alias Kakka Brar

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Karanjeet Singh Brar, Advocate for
Mr. S.B.S. Mann, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Rajesh Narang, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (Oral)

Case heard *via* video conferencing.

On 19.03.2021 the following order had been passed by this

court:-

“Learned counsel for the petitioner would contend that CD of CCTV footage was not attached with the challan and the same was not supplied to the petitioner until he filed an application for the same. It is further contended that by an order dated 06.03.2020, the prosecution had been directed to supply said CD before the next date of hearing, however, it was only supplied to him as recently as 07.02.2021.

Based on the CCTV footage supplied to the petitioner, he had moved an application under Section 311 Cr.P.C. seeking permission to recall witnesses PW1 and PW2 for cross-examination, which has been denied by the impugned order.

Counsel for the petitioner prays for only one opportunity to do the needful and he undertakes to summon the witnesses at his own expenses.

Notice of motion.

Ms. Rashmi Attri, AAG, Punjab, who is present through the medium of video conferencing, accepts notice for the respondent-State and seeks time to argue the matter.

Adjourned to 20.07.2021.

In the meantime, final order be not passed by the trial Court.”
Thereafter, 27.09.2021 the following order had been passed:-

Case heard by way of video conferencing.

CRR no.325 of 2021

Though, *prima facie*, with 6 months having gone by since the proceedings in the trial were stayed, I would see no harm in allowing the revision petition, with specifically learned counsel for the petitioner having submitted that he would seek only a ‘single opportunity’ to examine both the prosecution witnesses as are sought to be re-examined (PW-1 and PW-2), learned counsel for the complainant vehemently opposes the same.

Adjourned to 08.10.2021, for learned counsel for the parties to address argument in terms of the law settled on the issue.

To be shown in the urgent motion list. The interim order is modified to the extent that the trial court would now adjourn the proceedings in the trial to a date beyond that given by this court, till the next date of hearing only and specifically, with the learned counsel for the complainant submitting that the next date in the trial is 29.09.2021

CRM-M-18296 of 2020

It is to be noticed that when this court had observed that in any case the petitioner would not be admitted to bail in the aforesaid circumstances even if the revision petition was to be allowed today, learned counsel for the petitioner submits that he does not press the bail petition.

Dismissed as withdrawn.

A photocopy of this order be placed on the file of the other connected matter too.

Thus, as regards the petition by which the petitioner was seeking to be admitted to bail, that was withdrawn with the learned counsel obviously having understood that even if this petition is to be allowed, the petitioner would not be allowed to take advantage of his own application under Section 311 Cr.P.C., to avail of the concession of bail for himself.

Hence, as already observed in the previous order, with the petitioner seeking only one opportunity to re-examine PWs 1 and 2 in the context of a compact disc pertaining to a particular CCTV footage, and as recorded by a co-ordinate bench in the order dated 19.03.2021, the said CD actually having been supplied to him only on 07.02.201, I would see no reason to not allow this petition.

Today again however, learned counsel for the complainant has vehemently opposed the same, on the ground that with the learned trial court having given good reasons for dismissing the application of the petitioner, specifically because questions with regard to the CCTV footage had already been put to PWs 1 and 2 and thereafter for a period of two years the petitioner never filed any application seeking recalling of the same witnesses.

Having considered the matter, with the petitioner seeking only a single opportunity to cross-examine PWs 1 and 2 with respect to a particular compact disc as is stated to be an extract of a specific CCTV footage, this petition is allowed, with the trial court directed to summon PWs 1 and 2 and given one single opportunity to the petitioner to cross-examine those witnesses (upon them putting in an appearance before that court), with the cross-examination to be limited only to the extent of the compact disc as was supplied to the petitioner on 07.02.2021.

It is also made clear that to ensure that the petitioner does not take undue advantage of his own application, to avail of the concession of bail, he shall not be admitted to bail till the time that he or his counsel has cross-examined the witnesses on one single occasion; and after that if he

moves any application seeking to be admitted to bail at all, that would be decided wholly on its own merits.

October 13, 2021

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES
Whether Reportable : NO