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

CRM-M-43029-2021

Date of decision : 13.10.2021

Dalip Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anurag Arora, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Amit Jhanji, Sr. Advocate with
Mr. Abhishek Kumar, Advocate and
Mr. Siddharth Bhukkal, Advocate and
Mr. Himmat Singh Sidhu, Advocate for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of impugned order dated 20.08.2021 (Annexure P-3) passed by the Judicial Magistrate Ist Class, Jalandhar, in FIR No.6 dated 16.03.2017 registered under Sections 420, 467, 471 of the Indian Penal Code, 1860 at Police Station PS NRI, District Jalandhar Rural (Annexure P-1).

Learned counsel for the petitioner has submitted that the

complainant had filed an application through APP under Section 311 of Cr.P.C. for examination of Dalip Singh son of Sajjan Singh, which has been rejected vide impugned order dated 20.08.2021 (Annexure P-3). He has further submitted that in the present case, the alleged power of attorney has been executed by Dalip Singh son of Sajjan Singh and thus, his evidence is very relevant for the purpose of the present case inasmuch as, the signatures of the said Dalip Singh on the power of attorney is to be compared with his standard signatures. He has further submitted that although, there is a delay in the matter but has relied upon the judgment of the Hon'ble Supreme Court in **V.N. Patil Vs. K. Niranjan Kumar and others, (2021) 3 SCC 661**, to submit that a relevant piece of evidence can be produced at any stage of the proceedings.

Notice of motion.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the State and Mr. Amit Jhanji, Sr. Advocate assisted by Mr. Abhishek Kumar, Advocate, Mr. Siddharth Bhukkal, Advocate, and Mr. Himmat Singh Sidhu, Advocate appears on behalf of the complainant and have submitted that they are fully prepared to argue the matter and have opposed the present petition.

It has been submitted by the Senior Counsel for the complainant that in fact, a perusal of the FIR would show that it is not even the version of the attorney of the complainant who has got the FIR registered that the signatures on the power of attorney of the said Dalip Singh are forged or fabricated and in fact, the version is that the said

Dalip Singh had not read the power of attorney before signing it. It has been further argued that as per the provisions of Sections 91 and 92 of the Indian Evidence Act, 1872, oral evidence contrary to the written terms of the agreement is not admissible. It is further submitted that the present application has been moved only to delay the matter inasmuch as the petitioner is in Uganda and although, the FIR is of the year 2017 but the petitioner has never chosen to join the proceedings.

This Court has heard the learned counsel for the parties.

This Court has put it to the learned counsel for the petitioner that, in case evidence of the petitioner-Dalip Singh is allowed, then how much time would it take for the petitioner-Dalip Singh to appear before the trial Court so that no further delay is caused in the trial.

Learned counsel for the petitioner has submitted that the petitioner-Dalip Singh would present himself within a period of two weeks from today so that he could be duly examined.

In the present case, although, there is a delay in the matter on the petitioner's part but, keeping in view the totality of the facts and circumstances, as well as the judgment of the Hon'ble Supreme Court in V.N. Patil's case (Supra), the present petition is disposed of with the observations that one last and final opportunity is granted to the petitioner to present himself before the trial Court within a period of two weeks from today and in case, the petitioner appears within the said time and present himself for evidence, the trial Court is directed to record the evidence of the petitioner on a day to day basis and complete the

aforesaid evidence of the petitioner including his cross-examination, as expeditiously as possible, preferably within a period of five days from the date of his appearance.

It is made clear that in case, the petitioner does not appear before the trial Court within a period of two weeks from today, then the present petition would be deemed to have been dismissed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case.

13.10.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No