

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

CRR-2839-2019 (O&M)

Date of decision: 26.03.2021

Nand Kishora

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. N.K. Chhokar, Advocate for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

By way of filing the present revision petition, revisionist-complainant Nand Kishora seeks setting aside of order dated 28.08.2019, passed by Judicial Magistrate 1st Class, Faridabad, vide which application filed by the revisionist under Section 173 (8) Cr.P.C. for further investigation and for sending the specimen signatures/handwriting of main accused Lakhpat Singh and Tej Singh to FSL, Madhuban for examination and re-creating the specimen word 'RTI and Kalawati' was dismissed.

Briefly stated the facts of the case are that the complainant had filed an application in the Court to the effect that specimen signatures/handwriting of accused Lakhpat Singh and Tej Singh were not sent to FSL, Madhuban and specimen signatures of Lakhpat Singh

were not taken in capital letters; during cross examination of PW-15, it transpired that specimen signatures of co-accused Ombir were not available on judicial file; that as per report dated 30.06.2010 received from FSL, it was not possible to fix the authorship of Q7 in comparison with supplied specimen marked S1 to S5 were not on the file and in the absence of further investigation, the accused may take the benefit of doubt and the case of prosecution may be weakened.

The complainant had sought further investigation before the Trial Magistrate at Faridabad; that application was resisted on behalf of the accused, challenging the locus standi of complainant to file the application, further submitting that the specimen signatures of accused Lakhpat Singh were sent to FSL and report therefrom is available on the file.

After hearing argument, learned Trial Magistrate dismissed the application vide impugned order dated 28.08.2019, the operative part of the order is in para No.6 thereof, which for ready reference is reproduced as under:-

“The complainant has moved the present application on the ground that specimen signature of accused Lakhpat is not taken in capital letters and specimen handwriting of Tej Singh has not been sent to FSL for handwriting examination. As far as not taking specimen signature of Lakhpat in capital letters is concerned, the complainant should have raised objections when the specimen signatures of accused Lakhpat were taken but this was not done by the complainant. The perusal of case file shows that challan in the present case

was filed on 26.11.2020 and most of the witnesses have been examined in the present case. It has also been mentioned in the application that specimen handwriting of Tej Singh was not sent to FSL for examination and specimen S1 to S5 are not on the file. However, prosecution had sent the specimen signatures of accused to FSL and even the report of FSL is on file. Moreover, the Hon'ble Supreme Court in case titled as Amrutbhai Shambhubhai Patel Vs. Sumanbhai Kantibhai Patel & Ors., has held that the Magistrate has no power to direct further investigation on the prayer of the complainant. Accordingly, the present application is hereby dismissed.”

Feeling aggrieved by the said order, the complainant has knocked at the door of this Court, by way of filing the present revision petition.

I have heard learned counsel for the revisionist besides going through the record and I find that there is absolutely no merit in the revision petition. Section 173 (8) Cr.P.C., though empowers a Magistrate to direct further investigation in respect of offence(s) regarding which a report under Sub Section (2) has already been received but this power is not to be exercised in routine and in a mechanical manner but in suitable cases where such direction is required. The trial Court, vide a speaking order has considered the request of the complainant and rejected it, observing that the challan was filed on 26.11.2020 and most of the prosecution witnesses have been examined. The prosecution had sent the specimen signatures of accused to FSL and report therefrom was received, as such, allowing of the application in question was not

called for. The impugned order which is quite detailed and well reasoned does not suffer from any illegality or infirmity much less apparent on the face of such order. The impugned order is not shown to have resulted in miscarriage of justice. I do not see any reason to set aside the order by exercising revisional jurisdiction. The revision petition is found to be without any merit and is dismissed accordingly.

26.03.2021

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(H.S. MADAAN)
JUDGE

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