

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

CRM-M-18075-2022

Date of Decision: April 29, 2022

Darshan Lal Anand

... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Arnav Sood, Advocate,
for the petitioner.

Vivek Puri, J.

The petitioner has assailed the order dated 18.04.2022 (Annexure P-6) passed by the learned Judicial Magistrate First Class, Hoshiarpur, in the case bearing FIR No. 25 dated 22.02.2017, under Section 354-A of the Indian Penal Code (for short 'IPC') (Sections 354, 354-D and 506 IPC added later on), registered at Police Station City Hoshiarpur.

The petitioner is facing trial in the aforesaid case. During the course of the proceedings in the trial Court, an application was moved for issuance of directions to the petitioner to give voice sample for comparison with voice recorded in audio compact disc (C.D.) of the telephonic

conversation with the complainant. The said application was contested by the petitioner, but the same was allowed in terms of the order dated 04.03.2020 passed by the Court of learned Judicial Magistrate 1st Class, Hoshiarpur.

In consequence of the said order, the letter was sent to the Director, Forensic Science Laboratory, Phase-IV, SAS Nagar, Punjab for recording specimen voice samples. Vide letter (Annexure P/5), the Director, Forensic Science Laboratory, had sought certain documents and the some modalities were required to be completed before giving the date for recording. The detail of the documents/information sought is given herein below:-

- “1. Authority letter from the concerned official, Copy of FIR (Attested) and Recovery Memo (Attested).*
- 2. The Investigation officer (I.O) is directed to obtain certificate U/S 65B Under the “Indian Evidence Act, 1872” for the questioned CD/DVD, whichever contained alleged conversation from the complainant in the form of format enclosed.*
- 3. Sealed questioned CD/DVD etc.*
- 4. Typed Transcription of the questioned sample.*
- 5. Sample seal (attested).*
- 6. Call details record (CDR).*
- 7. Court order.”*

On the receipt of the said letter, the learned trial Court has passed the impugned order vide which the directions have been issued to the Ahlmad to comply the aforesaid pre-requisites for the purpose of obtaining the voice sample of the petitioner.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner has mainly contended that the petitioner is aggrieved by the information as sought at Serial No. 2 and 6 as the same do not form part of the record.

On a query by the Court, learned counsel for the petitioner has conceded that the order dated 04.03.2020 vide which the directions were issued to the petitioner to give voice sample for the purpose of comparison has been challenged by way of revision, which is pending in the Court of Sessions, however, no stay order has been issued in the said revision. Significantly, the present petition is silent with respect to any challenge having been made to the order dated 04.03.2020 in the Court of Sessions.

As such, the order dated 04.03.2020 has to be given effect and the order dated 18.04.2022 has been passed to give proper effect to the order vide which directions have been issued to the petitioner to give his voice sample. The order dated 18.04.2022 is an offshoot of the earlier order

dated 04.03.2020 vide which such directions for giving voice sample were issued. The order dated 04.03.2020 is not subject matter of challenge in the present proceedings. No stay order has been issued by the revisional Court, wherein the legality and validity of the said order has been challenged. In such circumstances, the modalities as sought by the Forensic Science Laboratory have to be given effect and complied with in the event, the same are available or can be made available to the trial Court in accordance with law.

Learned counsel for the petitioner has mainly contended that there is no certificate under Section 65-B of the Indian Evidence Act and the call detail record as sought and mentioned at Serial Nos. 2 and 6 of the letter (Annexure P/5) in the record of the trial Court. The directions have been issued to the Ahlmad to comply with the aforesaid pre-requisites and if any such record is procured at a belated stage, particularly when three prosecution witnesses have been examined, it will cause injustice and prejudice to the petitioner.

In this regard, it may be mentioned here that in the event, any document or record as sought by the Forensic Science Laboratory is not available in the court record and the same has been further sought from the prosecuting / investigating agency, the same may be accepted by the trial

Court after affording an opportunity of hearing to the petitioner. There cannot be any bar for the prosecuting / investigating agency to place on record additional documents/evidence, if the same are available and can be produced as per the provisions of law.

In these set of circumstances, no reasonable ground is made out to interfere in the impugned order.

Accordingly, instant petition is dismissed.

April 29, 2022
vkd

[Vivek Puri]
Judge

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No