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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2576-2022

Date of Decision: 24.11.2022

SUKHWINDER SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sanjiv Kumar Yadav, Advocate for
Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking setting aside of order dated 02.11.2022 whereby learned Additional Sessions Judge, Patiala has declined application of the petitioner under Section 391 Cr.P.C in CRA-1070-2018 arising out of FIR No.80 dated 20.07.2008 registered under Sections 419, 420, 467, 468, 471 and 120-B IPC, Police Station Sadar Nabha, District Patiala.

The brief facts of the case emerging from record are that Mohinder Singh son of Kartar Singh lodged an FIR under aforesaid sections of IPC against the petitioner. The police after completing investigation filed its final report under Section 173 Cr.P.C. The Sub Divisional Judicial Magistrate, Nabha, after following complete procedure came to a conclusion that present petitioner is accused of commission of offence punishable under Sections 419, 420, 467, 468, 471 and 120-B IPC.

The petitioner preferred appeal before Sessions Court, which was allocated to Additional Sessions Judge, Patiala. The petitioner during the pendency of appeal before Sessions Court preferred an application under Section 391 Cr.P.C averring that during defence evidence, appellant/petitioner could not summon and examine document expert to compare the signature of the appellant-Sukhwinder Singh on alleged agreement and receipt of token of money as it was not suggested by counsel in the Trial Court. The aforestated application came up for consideration before learned Additional Sessions Judge, Patiala, who vide impugned order dated 02.11.2022 has dismissed the same. Learned ASJ, Patiala has found that FIR was registered in 2008 and complainant-Mohinder Singh was cross-examined at length by learned counsel for the accused on 05.04.2017, 01.05.2017, 18.05.2017, 31.05.2017 and 31.07.2017 but not a single question was put to him regarding signatures of accused-Sukhwinder Singh. The appellant-Sukhwinder Singh in his statement under Section 313 Cr.P.C even though pleaded that document was not executed, however, he did not take plea that he has not signed the alleged agreement. The appellant did not raise this plea even after the close of prosecution evidence and further during the defence evidence. The appellant was having sufficient opportunity to raise this plea, however, the appellant is raising this plea at the appellate stage and intent of the appellant is to set up a new case which was never set up before the Trial Court.

Though, there is no bar in entertaining an application under Section 391 Cr.P.C during the course of proceedings pending before Appellate Court yet an application bereft of merit cannot be entertained

in a mechanical manner. In the case in hand, FIR was registered in 2008 and charges were framed in 2011. The complainant was cross-examined not on one occasion but number of occasions as noted in impugned order and he was never confronted with the question of signatures of the petitioner. The petitioner in his defence did not raise plea of signature. It seems that intent of the petitioner is to set up a new case or derail the appellate proceedings or delay the proceedings. There is no merit in the contention of the petitioner. Being bereft of merit, the present petition is dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.11.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>