

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-47402-2019

Reserved on: 03.08.2022

Date of Pronouncement: 08.08.2022

Banshi Lal

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARAPresent: Mr. J.P. Sharma, Advocate
for the petitioner(s).

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

During the pendency of trial before Judicial Magistrate Ist Class, Narnaul, one witness Sumer Singh filed an application under Section 311 CrPC claiming that he had recorded a video and had taken photographs of the alleged occurrence and production of such video and photographs is necessary for the proper decision of the case.

In reply to such application, the response of the prosecution was that the police did not find any CD during the investigation and it is not part of the challan. It was further claimed that the applicant-Sumer Singh was brother of the complainant and he in collusion with the complainant had prepared a false CD and photographs.

However, vide order dated 13.8.2019, learned Judicial Magistrate allowed the said application.

Feeling aggrieved, the accused has come up before this Court under Section 482 CrPC, seeking quashing/setting aside of the aforesaid order

dated 13.8.2019.

Notices were issued to private respondents and on 16.5.2022, learned counsel for the petitioner informed this Court that aforesaid applicant-respondent no.2 - Sumer Singh has expired during the pendency of present petition. Upon this, learned State counsel was asked to verify about the factum of death of Sumer Singh, which was duly verified on the subsequent date.

Since the alleged video and photographs were taken by respondent no.2-Sumer Singh and none else and it was for him to adduce the same in evidence and prove also, his death in the interregnum would also lead to termination of the application filed by him under Section 311 CrPC. Burden to prove such video and photographs was on Sumer Singh and he had not handed over the same to the police during investigation. After his death, the proof of such photographs and their authenticity also dies.

Given above, the present petition is allowed, impugned order dated 13.8.2019 passed by Judicial Magistrate Ist Class, Narnaul is set aside and the trial Court is directed to proceed further in the matter. Since the matter is old, trial Court is directed to expedite the trial.

(ANOOP CHITKARA)
JUDGE

August 08, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.