

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

118

CRM-M-21968-2023 (O&amp;M)

Date of decision: 27.07.2023

Ranjit Singh @ Rana

..Petitioner

Versus

State of Punjab

..Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

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**AMAN CHAUDHARY, J**

1. This petition has been filed for setting aside the order dated 13.02.2023 passed by learned Judge Special Court, Amritsar in FIR No.126 dated 23.08.2013 registered under Section 22 of NDPS Act, at Police Station Gharinda, District Amritsar City.

2. Learned counsel for the petitioner submits that the learned trial Court has committed an error while dismissing the application for summoning DSP Parvesh Chopra, who had submitted an affidavit before this Court, regarding the original sample having been found.

3. Learned State counsel submits that the witness which is sought to be called for examination by the petitioner had filed the alleged affidavit in the Hon'ble High Court in CRM-M-10406-2020, in his official capacity and is already a part of the judicial record. The alleged recovery was got effected by the then DSP Mukhwinder Singh, who has already been cited as a witness in the aforesaid FIR. Thus, he prays for the dismissal of the present petition.

4. Heard.

5. A gainful reference can be made to the judgment in **Swapan Kumar Chatterjee vs. Central Bureau of Investigation**, (2019) 14 SCC 328, wherein Hon'ble The Supreme Court had observed that no cogent reason forthcoming to either recall the complainant or examine witness from office of Registrar of Companies, which was also not considered to be essential for the just decision of case, and the power under this provision should not be exercised, if the application has been filed as an abuse of the process of law. Relevant extract reads thus:-

“It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this section to even recall witnesses for re-examination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case...”

6. The present case relates to an FIR registered in the year 2013. Previously, when the trial Court allowed the application filed by prosecution for re-sampling, the petitioner had challenged the said order before this Court in the year 2020 by filing CRM-M-10406-2020, which was withdrawn by him. The application in question was filed after the order passed in aforesaid petition and thus, the present petition is nothing but an effort to delay the proceedings of the trial. However, the concerned persons related to the case, i.e. 2(i) to 2(iii), mentioned in the application have already been summoned by the Court. As such, the witness which is sought by the petitioner had filed the said affidavit in the official capacity and the affidavit is already a part of judicial record, therefore, the petitioner cannot be allowed to further delay the trial by filing such an application. The case is at the stage of defence evidence.

7. In view of the above, this Court finds no illegality or infirmity in the impugned order and as such, the present petition is dismissed.

27.07.2023  
ashok

( AMAN CHAUDHARY )  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No