

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRR-3236-2014
Reserved on: 28.08.2023
Pronounced on: 01.09.2023

Shyam Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Narinder Singh, Advocate for
Mr. Ravinder Kohli, Advocate for respondent No.2.

ANOOP CHITKARA, J.

1. The complainant (petitioner herein) on whose complaint, the accused/respondent No.2 was nabbed and prosecuted, has come up before this Court challenging the order dated 12.08.2014 (Annexure P-1)) vide which, the trial Court directed him to give his voice sample.

2. Vide a detailed order dated 12.08.2014, the Additional Sessions Judge, Patiala, had directed the petitioner (PW-2)-Dr. Sham Singh, PW-3 Gurdeep Singh (Shadow witness) as well as accused Dr. Ravinder Kohli, to appear before the Director, Central Forensic Science Laboratory, Sector-36, Chandigarh and give their voice samples.

3. Feeling aggrieved by the order of giving voice samples, the petitioner had come up before this Court by filing the present criminal revision petition and because the impugned order dated 14.10.201 was stayed and the trial is also pending.

4. The petitioner's case is that there was no jurisdiction with the trial Court to direct the persons to get their voice recorded. This argument is baseless given the law laid down by the Hon'ble Supreme Court in ***Criminal Appeal No.2003 of 2012 titled as Ritesh Sinha vs. State of Uttar Pradesh and another, decided on 02.08.2019***, vide which, it was clarified that Judicial Magistrate must be conceded the power to order a person to give sample of his voice for the investigation of a crime. It was further ordered

that such powers would be conferred on the Magistrate by a process of judicial interpretation and in exercise of jurisdiction vested under Article 142 of the Constitution of India.

5. The petitioner's second ground is mentioned in para 10(xiv) of the petition, which reads as under:-

"That the second reason for setting aside the impugned order is that the learned trial Court has not even considered the fact as to whether the earlier statement for the purpose of comparison is relevant during the course of trial. It is pertinent to mention herein that the impugned order has proceeded on the premise that the petitioner is attempting to influence the accused by demanding money from him for settling the dispute and the same has been considered to be an inference in criminal jurisprudence."

In fact the petitioner is the complainant and if the voice matches it would be the petitioner whose stand would vindicate, rather challenging the order directing for giving voice sample. It is the complainant who is weakening his stand and even otherwise there is no reason for this Court to assume that stand of the accused has to be incorrect.

6. The petitioner's third ground is that the conversation had taken place in August 2009 and now the conversation being tempered cannot be ruled out. It is clarified that if the petitioner who is the complainant, is now afraid that voice has been tempered with this Court. The concerned trial Court shall consider this aspect that who had tempered voice and would appreciate the evidence in accordance with law by being extremely careful in this regard. Thus, no further orders are required in this regard as far as this prayer is concerned.

7. Petitioner's last submission is that he was not given appropriate opportunity when the above said order was passed. This submission is again baseless because this is not the petitioner who being put to trial whether his voice matches and would not take him for any punishment in the present FIR. Thus, there was no need for the Court to summon the complainant before passing the order for recording voice.

8. I have gone through the impugned order which is well reasoned and suffers no infirmity.

9. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer*

wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

10. In the entirety of facts and circumstances, petitioner fails to make out a case to interfere in the impugned order and as such, the present petition is dismissed. Interim orders are recalled. All pending applications, if any, stand disposed.

11. Trial Court to fix new dates in terms of the order which has now been upheld.

(ANOOP CHITKARA)
JUDGE

01.09.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.