

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRR-1857-2018 (O&M)
Date of decision: 02.05.2023

Sohan Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Satyam Arora, Advocate for
Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab.

Mr. Naveen Sharma, Advocate
for respondents No.2 to 4.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is impugning the order dated 10.05.2018 passed by learned Chief Judicial Magistrate, Bathinda whereby his application under Section 311 of the Cr.P.C. was dismissed.

2. Learned counsel for the petitioner argues that the Court below fell into error while dismissing his application under Section 311 of the Cr.P.C. without as much as appreciating that the examination of an handwriting and finger print expert would be crucial and have a direct bearing on the merits of his case. Not only this, it would in no manner cause any prejudice to the opposite party as they too would get an opportunity to rebut it. Learned counsel has submitted that as per the case of the petitioner/complainant, in order to cause wrongful loss to him, private respondents had intentionally written some words on the sale deed in question, which were apparent even to a naked eye. While

drawing the attention of this Court to the FSL report (Annexure P-3), learned counsel submits that no doubt there was indeed an FSL report on record, however, it was an inconclusive report as it had failed to give any opinion qua the age of the writings on the document sent to it, much less whether they were added subsequently. Learned counsel has, thus, asserted that it would be of utmost importance that a private handwriting and finger print expert be examined to give a conclusive report qua the age of the writing on the document which was sent to the FSL. Learned counsel has further argued that the Trial court had clearly erred in holding that there was no technology/scientific method in existence to ascertain the exact age of writing. Learned counsel has urged that the Madras High Court in ***C.R.P.(PD) No.3173 of 2009 titled as 'Elumalai Vs. Subbaramani' decided on 03.01.2011***, had refused to accept that the age of handwriting could not be ascertained in view of the great advancements made in the field of science.

3. On the other hand, learned counsel for respondents No.2 to 4 has vehemently opposed the prayer and submissions made by the counsel opposite by submitting that the application filed by the petitioner under Section 311 of the Cr.P.C. had been rightly dismissed vide the impugned order. Learned counsel submits that the application under Section 311 of the Cr.P.C. had been filed by the petitioner before the Court below at a highly belated stage and after an inordinate delay. Hence, on this ground itself the application was liable to be dismissed. Learned counsel has submitted that the FSL report had been received and had been on record much prior to the framing of charges i.e. on 07.10.2015, however, the petitioner for reasons best known to him,

rather obvious, had kept mum during all this time. The application was moved only after the evidence of the prosecution had concluded and thus it was obvious that the sole object was to delay the trial and subject the respondents to the sufferings of a prolonged trial. It was also asserted that the determination of age of handwriting is not a perfect science and the evidence given by private handwriting expert could not be kept at a higher pedestal than that of the opinion already given by experts in the FSL report.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. This Court does not find any merit in the submissions made by the learned counsel for the petitioner. It is a matter of record that the FSL report was a part of the challan and had been on file much prior to when the petitioner woke up from his slumber to file application in question under Section 311 of the Cr.P.C., at the fag end of the trial. It is, thus, discernible that the application which has been moved at a highly belated stage is nothing but a dilatory tactic.

6. At this juncture, it is apposite to mention that the right to speedy trial is an invaluable right of the accused. A deliberate attempt to frustrate this right of the accused cannot be facilitated by the Court. Allowing the application at this stage would undoubtedly cause prejudice to the accused.

7. Furthermore, the determining factor for deciding an application under Section 311 of the Cr.P.C. would be as to whether it would be essential for the just decision of the case. The FSL report in this regard is already on record. Even otherwise, the petitioner has not

been able to answer much less satisfy this Court qua any such technology being in existence from which the exact age of a particular writing could be determined.

8. In the circumstances, the instant revision petition being devoid of any merit is dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

02.05.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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