

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2848-2018
Decided on : 17.04.2023

Rajiv Garg

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Dr. Rao P.S.Girwar, Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, Sr. DAG, Punjab.

Mr. Sapan Dhir, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is impugning the order dated 03.08.2018 passed by learned JMIC, Bathinda vide which his application under Section 294 Cr.PC was dismissed.
2. Learned counsel for the petitioner *inter alia* contends that while passing the impugned order the Court below failed to appreciate that the contents of the Compact Disc (in short 'CD') would be relevant for the just and appropriate adjudication of the case. Learned counsel submits that it is a matter of record that the CD had been exhibited in proceedings under Section 125 Cr.PC, which were pending between the parties, thus, there could be no embargo to exhibit the CD in the present case and for further directing the complainant to give her voice sample. He still further submits that the defence of the petitioner

would be gravely prejudiced in case he was not permitted to take the voice sample of the complainant as it would go a long way to prove his innocence. In support of his submissions, learned counsel has placed reliance on the judgment of Hon'ble Supreme Court in ***Ritesh Sinha vs. State of Uttar Pradesh, 2019(3) RCR (Crl.) 952, Shamsher Singh Verma vs. State of Haryana, 2016(1) RCR (Crl.) 167 and Shafhi Mohammad vs. State of Himachal Pradesh, 2018(3) RCR (Crl.) 388.***

3. Per contra, learned State counsel assisted by counsel for the complainant has opposed the prayer and submissions made by counsel opposite. Learned counsel for the complainant has submitted that the contents of CD are totally irrelevant to the case in hand, rather they are fabricated and not even genuine. It has been further submitted that the petitioner had moved the application under Section 294 Cr.PC at the stage of prosecution evidence, which clearly indicated that he was indulging in dilatory tactics.

4. Heard learned counsel for the parties and perused the relevant material available on record.

5. Learned counsel for the petitioner has failed to satisfy this Court as to how the present revision petition is maintainable against the impugned order since, it is an interlocutory order.

6. Further, merely because the CD was exhibited in proceedings under Section 125 Cr.PC, which are pending between the parties, it cannot be a ground to allow an application under Section 294 Cr.PC moved by the petitioner, more so, when the learned counsel for the petitioner has failed to satisfy this Court as to how the contents of the alleged CD would be relevant to the present case

wherein charges have been framed under Sections 451, 323 and 506 IPC. It is also pertinent to notice here that the complainant herself is disputing the genuineness of the CD in question. Hence, this Court fails to comprehend as to how the contents of the CD would prove the innocence of the petitioner.

7. The case laws relied upon by the learned counsel for the petitioner would not help him in the facts and circumstances of the instant case as the ingredients to attract Section 294 Cr.PC are not made out coupled with the fact that there is a big question mark qua the relevance of the contents of the alleged CD to the case in hand.

8. As a sequel to the above, the present petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

17.04.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No