

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

(101)

Neutral Citation No.2023:PHHC:105176-DB

CRR-1797-2023

Decided on : 16.08.2023

Gurinder Singh and another

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr. Sangram Singh Saron, Advocate,
Mr. Hitesh Puri, Advocate and
Ms. Amisha Batra, Advocate for the petitioner (s).

Mr. Gaurav Garg Dhuriwala, Addl. AG, Punjab.

G.S. Sandhawalia, J.(Oral)

Challenge in the present criminal revision petition is to the order of the learned Sessions Judge, Jalandhar dated 06.07.2023 wherein the prayer for placing on record the certified copies of the reports of the Special Investigating Team (SIT) given in compliance of the directions of this Court in CWP-20359-2013 alongwith one bail order dated 07.08.2020 (Annexure P-8) passed in CRM-M-19751-2020 filed by the dismissed Investigating Officer Inderjit Singh whereby his bail application was dismissed, has been declined while dismissing the application under Section 311 Cr.P.C. in case FIR No.60 dated 01.06.2012 under Sections 22/29/25/61 of NDPS Act lodged at Police Station Kartarpur, District Jalandhar.

2. The reasoning which weighed with the learned Sessions Court while dismissing the application under Section 311 Cr.P.C. was based on the ground that on an earlier occasion he had dismissed two applications on 15.05.2023 (Annexure P-12) whereby members of the SIT were sought to be examined and for summoning the witnesses from the office of the Chief Minister, Punjab alongwith the reports. The other additional factum which weighed with the learned Sessions Judge was that the defence evidence had been closed way-back on 03.08.2019 and the first application under Section 311 Cr.P.C. had been then dismissed which order was upheld by a Coordinate Bench on 14.10.2021 (Annexure P-9), wherein an opinion had been recorded that as many as 35 opportunities had been taken to lead defence evidence by taking about 3 years for this purpose and vexatious applications calling for unnecessary witnesses were being filed. It was also noticed that DW-Sukhwinder Kaur from the office of Senior Superintendent of Police, Kapurthala had already proved the dismissal of Inspector Injderjit Singh and relevant questions qua the rank and dismissal of said Inspector had already been asked from her.

3. Counsel for the petitioners has contended that the reliance on the earlier orders was not justified as subsequent events had come into picture and the reports were not available when earlier orders were passed and the reports were only opened and got indexed vide order dated 28.03.2023 passed in CWP-20359-2013. Therefore, it was argued that the prayer made earlier in the first application which was dismissed on 03.08.2019 (Annexure P-7) would not be a sustainable ground, since at that point of time the reports were not available for being exhibited. It is the categorical case of the counsel for the petitioners that he does not wish

to press the prayer for getting the certified copy of the bail order on record, since admittedly it was passed on 07.08.2020 (Annexure P-8) and reasonable time has elapsed, but no effort was made to get it exhibited at an earlier point of time.

4. It is, thus, submitted that on an earlier occasion the prayer in the first application dated 24.04.2023 (Annexure P-10) was for summoning of the record and the witness from the office of the Chief Minister, Punjab alongwith the reports which had been forwarded to the Government of Punjab whereby Inspector Inderjit Singh was indicted on the ground of false implication. A similar prayer was made in the third application dated 15.05.2023 (Annexure P-11) that the member of the SIT be summoned to prove the observations against Inspector Inderjit Singh now dismissed.

5. It is pointed out that when the application was dismissed on 15.05.2023 (Annexure P-12) Shri Hitesh Puri, Advocate had stated that he had applied for certified copy of inquiry report and had requested that some time may be given to him and in pursuance of the same the fourth application has been filed. It is further submitted that the learned Sessions Judge has failed to notice the fact which has specifically been averred in the application dated 29.05.2023 (Annexure P-13) that the certified copy of the reports have been received by the applicant and, therefore, he has sought to place the same on record in the defence evidence.

6. It is, accordingly argued that three reports dated 30.01.2018, 14.03.2018 and 08.05.2018 were only made available on 28.03.2023 for the first time and, therefore, the petitioners were never in a position to take the plea which has been taken in the fourth application. It is, thus,

contended that the grounds which prevailed with the learned Sessions Judge at Jalandhar was the defence evidence had been closed on 03.08.2019 and the earlier petition bearing CRM-M-46690-2019 had been dismissed by a Coordinate Bench of this Court on 14.10.2021 (Annexure P-9) and the earlier applications had been dismissed on 15.05.2023 (Annexure P-12) wherein the prayer was different in the present application.

7. We have perused the paper-book and have been duly assisted by Mr. Dhuriwala who has put in appearance having advance copy. Since the case is already fixed for tomorrow and the same is pending for the last more than one decade, we propose to decide the matter today itself, so that the proceedings are further not dragged by the accused and trial is not delayed anymore.

8. The power under Section 311 Cr.P.C. is vast and can be exercised at any stage of any inquiry, trial or other proceedings. The petitioner though has substantially delayed the trial and more than 5 years have expired since the defence evidence was closed. Apparently the accused who are large in number and as many as 24 in number have been successfully delaying the trial by filing one application or the other which has led to the learned Sessions Judge to take a harsh view by denying the exhibition of the certified copies of the reports.

9. However, the fact remains that the certified copies of the reports could only be made available after 28.03.2023 and in such circumstances, we are of the considered opinion that the same would be relevant for the decision of the case as it would go into the root of the matter and since perusal of the second report goes on to show that the SIT

had examined the record of the FIR in question and both the petitioners were also examined. The operative part of the order dated 28.03.2023 passed by us reads as under:-

“14. Accordingly, keeping in view the above background we are of the considered opinion that to ensure that public confidence as such is enhanced regarding the proceedings of the Courts and also that we have to balance the interests of others who might have been castigated by the said officer, we direct that all the reports be opened except the report dated 08.05.2018, which Mr. Chattopadhyaya has submitted in his personal capacity separate from the other two members. The other reports also which had been supplied to the State on an earlier occasion on 27.01.2023 be also opened. All other reports on record be also opened.

15. Office is directed to tag the said reports in a separate file duly indexed.

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19. However, it is open to the State to take action upon the reports dated 01.02.2018, 15.03.2018 and 08.05.2018 of the SIT and also the other reports submitted by other officials which we have indexed separately, in case they wish to do so, except the report dated 08.05.2018 submitted by Mr. Chattopadhyaya in his personal capacity.”

10. Thus, from the above sequence of events the evidence which is sought to be brought on record could not have been produced earlier, since it was lying in sealed cover since the year 2018. This aspect, thus, was not considered by the Trial Court while dismissing the application. Resultantly, we are of the considered opinion that it would be in the interest of justice at this stage, if the reports come on record. However, we make it clear that whatever we have observed here is only for the purpose of allowing the application under Section 311 Cr.P.C for bringing on record certified copies of the reports and nothing observed herein as

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such would be binding upon the Trial Court or can be relied upon by the defence. Accordingly, the present criminal revision petition is allowed and the order dated 06.07.2023 is set aside to the limited extent and the petitioners are allowed to bring on record certified copies of the three reports in question in their defence evidence.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

16.08.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	