

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53533-2023 (O&M)
Date of order: 20.11.2023

Rambir Sharma
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Ashish Tewatia, Advocate,
for the petitioner(s).
Mr. Rajat Gauta, Addl.AG.,Haryana,

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
354	22.6.2022	Kotwal, Faridabad	406/420/506/120-B IPC and Section 7/7(A) of the Prevention of Corruption Act, 1988.

1. Aggrieved by the order dated 28.2.2023 passed by the Addl. Chief Judicial Magistrate, Faridabad, whereby the application moved by the State was allowed directing the petitioner to give his voice samples, which stands affirmed vide order dated 26.7.2023 passed by the Court of Additional Sessions Judge, Faridabad, he has come up before this Court under Section 482 CrPC, on the ground that the voice with which the prosecution wants to compare his voice was taken under threat, to which the petitioner had never consented.
2. I have heard counsel for the parties and gone through the impugned order. The kind of order this court proposes to pass, no response is required from the respondents.
3. Learned Judicial Magistrate has referred to a judgment of Hon'ble the Apex Court in Smt. Salvi v. State of Karnataka. Even the matter is well settled by an eleven Judges Bench of Hon'ble Supreme Court in the case of State of Bombay v Kathi Kalu

4. The grievance of the petitioner is that once the original voice was recorded under pressure, then comparison thereof would violate his rights under Article 20(3) of the Constitution of India because he has been compelled to be a witness against himself, which cannot be done.
5. Be that as it may, the petitioner’s right to take the plea of violation of his rights under Article 20(3) of the Constitution of India remains open. In addition to that, he shall also be permitted to take protection of Sections 25 and 26 of the Indian Evidence Act, 1872, in case any statement is made in custody in the presence of police officials, and if the prohibition is attracted in the fact scenario. However, this order is subject to the petitioner complying with the impugned order without any delay and cooperating in the investigation as and when called upon and further not seeking adjournment regarding giving voice samples.
6. Given above, the present petition is disposed of

(ANOOP CHITKARA)
JUDGE

November 20, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	YES