

CRR-2459-2023 (O&M)
Decided on: 30.10.2023

Major Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
28	01.04.2017	City Fazilka	166, 201, 380, 426, 109, 409, 120-B IPC, Section 13 of PC Act and Section 67-A of Punjab Police Act and Section 59 of NDPS Act

1. Aggrieved by the order dated 10.10.2023 passed by the Additional Sessions Judge, Fazilka, whereby, the application filed by the State under section 311 CrPC to place on record pen drive containing video recording of CCTV camera of centralized Malkhana, Fazilka along with certificate under Section 65-B of Indian Evidence Act, was allowed, the petitioner has come up before this Court.
2. Vide an application dated 03.10.2023 filed by the State under section 311 CrPC, it was mentioned that in the examination-in-chief of PW4-Senior Superintendent of Police- Harmeet Singh Hundal, CD which was attached with the judicial file, could not be played because it was not found to be in working condition. Since back up was already available as such liberty was sought to produce such evidence in the pen drive along with certificate under Section 65-B of Indian Evidence Act. Accused/petitioner filed objection to the said application. It was admitted in the reply that PW4 was examined in the Court but the accused/petitioner denied the contents of the application and opposed the prayer clause. Vide order dated 10.10.2023, learned Additional Sessions Judge allowed the said application.

3. It is undisputed that when PW4-Senior Superintendent of Police/Harmeet Singh Hundal was being examined and during his examination-in-chief one CD (compact disk) which was attached with judicial file, was played but it could not be played for the reason that it was not found in working condition. PW4-Harmeet Singh Hundal was the then incharge of centralized Malkhana as such under that capacity, he gave CCTV footage recording in pen drive along with certificate under Section 65-B of Indian Evidence Act. The compact disk as well as pen drive both are storage devices and CD was invented prior to pen drive and further pen drive is ubiquitous and easy to use. Simply because initial copying was made in CD, would not imply that contents of the recording would change if same were copied in the pen drive, it is also not their CD cannot be over-written like pen drive.
4. While allowing the application, learned Additional Sessions Judge specifically observed that after conclusion of entire prosecution witnesses, the merits and authenticity of the pen drive shall be taken note of.
5. Given above, it is not a fit case for notice of motion calling for the report from the State, however counsel for the State submitted that pen drive was not submitted to fill up the lacuna but it was done to meet ends of justice. I fully agree with contentions made by counsel for the State of Punjab.
6. To conclude, the impugned order dated 10.10.2023, is legally correct and calls for no interference, as such the petition is dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.10.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.