

CRM-M-33044-2018(O&M)

240 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-33044-2018(O&M)
Date of Decision: 13.03.2024

PARAMJEET SHARMA

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arvinder Singh, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking issuance of direction by this Court to respondent-State for getting the voice samples of the petitioner, examined from FSL, Madhuban or any other FSL in India, under the supervision of a senior IPS Officer.

2. Learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in the FIR No. 274 dated 14.08.2016 registered under Section 7 of Prevention of Corruption Act, 1988 and 120-B of Indian Penal Code lodged at Police Station Kurukshetra University, Kurukshetra in order to wreak vengeance on her as the petitioner has instituted several writ petitions and a contempt petition against senior IAS Officers. The petitioner has filed a petition before this Court bearing no. CRM-M-46402-2016 seeking quashing of the FIR(*supra*). In the meantime, vide application dated 14.09.2016 (Annexure P-10), DSP (HQ), Kurukshetra sought permission from the Court to record voice samples of the accused, wherein it was specifically stated that the said recordings will be sent to FSL, Madhuban for

analysis. Thereafter, the petitioner received a phone call whereby she was

directed to be present in CFSL, Sector-36, Chandigarh on 01.12.2016 for the purpose of recording her voice sample. It is further contended that during the voice sampling, one lady Police Officer continuously interfered with the recording process. DSP Krishan Kumar, IO was also present at the time and kept interfering with the proceedings while directing the scientist to return a positive report. In this regard, petitioner immediately wrote a letter dated 02.12.2016 (Annexure P-12) to Superintendent of Police, Kurukshetra and requested that her voice sample be taken again. She also made a similar request vide letter dated 02.12.2016 (Annexure P-13) to Director, CFSL, Sector 36, Chandigarh as well as vide representation dated 05.12.2016 (Annexure P-14) to the Director General of Police, Haryana Police. The petitioner has only consented to having her voice sample examined by FSL, Madhuban.

3. Learnes Senior Counsel further contends that the FIR(*supra*) was registered at Kurukshetra and for the reasons best known to the jurisdictional police authorities, the petitioner was compelled to record her voice samples at CFSL, Chandigarh, even though all cases pertaining to the State of Haryana that require forensic analysis, are sent to FSL, Madhuban situated in Karnal. The apprehensions of the petitioner, as recorded in the representation to SP, Kurukshetra (Annexure P-12) and DGP, Haryana (Annexure P-13), proved to be true as the final report prepared by CFSL, Chandigarh returned a positive finding. Lastly, it was contended that the petitioner has approached this Court by filing CWP-1731-2018, challenging the sanction for prosecution of the petitioner for the offences in the FIR(*supra*) where in this Court has stayed the operation of the sanction order.

4. *Per contra*, learned State counsel submits that the Investigating Agency has already concluded the investigation and submitted the final report. He further submits that there is no provision that mandates the forensic analysis to be conducted only at FSL, Madhuban. The Investigating Agency has the discretion to send the material for forensic examination to any laboratory, with an available time slot. He submits that proper procedure has been adopted while obtaining the voice sample and the CFSL, Chandigarh was entrusted with the analysis as it is one of the premier institutions in the region.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has immediately raised her objections to the manner of recording her voice sample, by filing the representation on the next day, i.e. 02.12.2016, of recording her voice sample. She categorically mentions the presence of the lady police officer who interfered the process of recording. The fundamental right enshrined under Article 21 of the Constitution of India, guarantees free and fair investigation. The petitioner has been vocal since the inception regarding procedural impropriety in recording of the voice samples and filed representations before SP, Kurukshetra(Annexure P-12), Director, CFSL, Sector 36, Chandigarh(Annexure P-13) and DGP, Haryana(Annexure P-14) for re-recording of the same. In view of the legal maxim-Justice should not only be done, but should manifestly and undoubtedly be seen to be done, this Court is of the opinion that dignity of the legal process should be maintained by ensuring that the investigation is conducted fairly. This Court is of the considered view that no prejudice would be caused to the prosecution, in case, the petitioner is directed to get her voice samples recorded afresh in the present

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of the concerned jurisdictional Magistrate and the same be sent to any other FSL except FSL, Madhuban and CFSL, Chandigarh as principles of natural justice are an integral part of right to fair trial under Article 21 of the Constitution of India and any denial of the best available evidence or effective and substantial hearing to accused in proving defence would amount to denial of free and fair trial.

6. In view of the above, the petitioner is directed to move an appropriate application before the concerned jurisdictional Magistrate, Kurukshetra within a period of 02 weeks from today on receipt of which, the learned jurisdictional Magistrate shall issue notice to the Investigating Officer and get her voice sample under its supervision. The Investigating Agency shall forward the sample to any FSL other than FSL, Madhuban and CFSL, Chandigarh, for examination, along with the material available for comparison.
7. The present petition is disposed of in aforesaid terms.

13.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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