

2024:PHHC:008485



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-36217-2023

Date of Decision :07.05.2024

GURMEET SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. B.D.Sharma, Advocate,
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

Ms. Ruchi Sekhri, Advocate,
for respondents no.2 and 4.

Mr. Vikram Jeet Singh, Advocate,
for respondent no.3.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition filed under Section 482 Cr.P.C. challenge is thrown to the order dated 14.07.2023 (Annexure P-7), whereby, the application filed by the complainant (petitioner herein), under Section 311-A Cr.P.C. read with Section 73 of the Indian Evidence Act, has been declined by the learned trial court concerned, during the pendency of case FIR No.80, dated 21.06.2011, under Section 420, 465, 467, 471, 120-B, 454 and 380 of the IPC, registered at Police Station Division no.6, Jalandhar.

2. That on the complaint made by the present petitioner-

Gurmeet Singh, FIR (*supra*), was registered, wherein, he alleged that the respondent no.2/accused-Pritpal Singh, forged his signatures on an affidavit dated 29.04.2008, in a conspiracy with co-accused/respondents no.3 to 5, to get the electricity connection installed in the house of the petitioner at Jalandhar, transferred in his own name. During the investigation the signatures of the petitioner appearing on the said affidavit got compared with his specimen signatures, and also got compared the said signatures with the admitted handwriting of the accused/respondent no.1-Pritpal Singh, and as per the FSL report dated 25.04.2011, the signatures of the petitioner appearing on the affidavit (*supra*), did not tally with the specimen signatures of the petitioner, rather the same tallied with the admitted handwriting of respondent no.1-Pritpal Singh. The said FSL report was made part of the final report by the concerned SHO.

3. Learned counsel for the petitioner submits that the pivotal issue which is alleged in the instant FIR, is that the accused has forged his signatures to get the electricity connection transferred in his name. Therefore, in order to have just trial, the trial court concerned, ought to have allowed the application.

4. He further submits that Section 73 of the Indian Evidence Act, empowers the trial court to instruct a party to submit his handwriting or signatures enabling the court to compare any words or figures so written, to decide a lis before it, and in case accused or other person refuses to give his specimen signatures or handwriting, thereupon, the

court is free to take adverse inference against such accused. In support of his submission, learned counsel for the petitioner submits that the application so filed by the petitioner, was just and necessary to dig out the actual truth. Therefore, the learned trial court concerned has erred in law by declining the same.

5. On perusal of the application, it transpires that the application was filed for issuance of a direction upon respondent no.1-Pritpal Singh and respondent no.3-Navdeep Singh, to give their specimen signatures in *Gurmukhi* as well as in English language, and thereupon their handwriting alongwith original affidavit Ex.PW4/C and Ex.PW4/D and original letter to Market Committee Ex.PW1/A and original application for transfer of electricity connection Ex.PW4/E, were sent to the FSL for its comparison, and also sought the re-examination of Dr. Seema Sharda (PW15), after comparison.

6. Learned trial court concerned, considering the aspect that enough opportunities have been granted to the prosecution, to prove their case as well as considering the fact that the case is pending for the last 10 years, dismissed the application vide impugned order (*supra*).

7. This court has considered the submissions made by learned counsel for the parties, and has gone through the entire record, and it is the considered opinion that there is no illegality or perversity in the impugned order passed by learned trial court concerned, for the reasons as discussed hereinafter:-

- i. It is an FIR case wherein, a thorough investigation was conducted by the prosecution, and even

the admitted signatures of the accused were sent to the FSL, and thereafter, the report was duly tendered in the final report by the prosecution. No only that, earlier the petitioner/complainant made an application for examination of Dr. Seema Sharda, as one of the prosecution witnesses, who tendered her report in evidence. However, that application was declined, but later on in a revision petition preferred by the petitioner/complainant, was allowed by the revisional court, and consequently Dr. Seema Sharda, stepped into the witness box as PW15. Therefore, in case any further specimen signatures were required, efforts should have been made during investigation or at the best at the time when Dr. Seema Sharda, was sought to be examined as witness, by the prosecution.

ii. What surfaced from the perusal of the impugned order (*supra*), is that the instant application has been filed after closing of the prosecution evidence by court order dated 21.07.2022, and even the statement of accused under Section 313 Cr.P.C. was been recorded, and that order has never been challenged before this Court.

iii. Further, it transpires that as many as 50 opportunities were given to the prosecution to conclude their evidence during the period of 6 years. However, the petitioner/complainant has never ever made any such application, during prosecution evidence. It seems that the present application was filed only with the motive to fill up the *lacuna*, which cannot be achieved through filing application under Section 311-A Cr.P.C., specifically when specimen signatures of the accused has already been compared through the FSL and even the expert has stepped into the witness box as mentioned above.

vi. Finally, the FIR in the instant case was registered way back in the year 2011, since then respondents

no. 2 to 5, are facing trial, and now trial is at the stage of defence evidence, i.e. in midway. The trial cannot be allowed to go for an indefinite period. The speedy trial is one of the essential and recognised right of an accused, which cannot be curtailed in a mechanical manner.

8. Therefore, this court finds no merit in the instant petition.

Consequently, the same is **dismissed**.

May 07, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No