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

CRR-1673-2024 (O&amp;M)

Date of Decision:- 05.09.2024

**Abdul Shahid**

...Petitioner

Versus

**State of Haryana**

...Respondent

**CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Dr. Pankaj Nanhera, Advocate with  
Mr. Deepender Pratap Singh, Advocate  
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

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**AMARJOT BHATTI, J.**

1. Petitioner Abdul Shahid has filed revision against impugned orders dated 08.07.2024 and 02.08.2024 passed by learned Additional Sessions Judge, Faridabad in Sessions Case No. SC-771-2019, titled "State vs. Abdul Shahid" in FIR No. 384 dated 14.08.2019 under Sections 306, 34 of Indian Penal Code, 1860, registered at Police Station Sector 31, Faridabad.

2. It is argued that aforesaid FIR has been registered against two persons including present petitioner on the statement of complainant, who is son of deceased, alleging that petitioner harassed and blackmailed him (deceased) continuously and due to mental torture, harassment, he committed suicide on 14.08.2019. After completion of investigation, challan was presented only against present petitioner, whereas other accused was exonerated. There were two pendrives annexed with challan



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report regarding alleged CCTV footage. One of the pendrive was proved on record by examining Saurav Tripathi PW-19 which was exhibited as Ex.PAJ/PW19 and certificate under Section 65B of Indian Evidence Act is Ex.PAI/PW19. Other pendrive was proved on record by examining Ravinder PW-20. Said pendrive was exhibited as Ex.PAM/PW20 and certificate under Section 65-B of Indian Evidence Act is Ex.PAL/PW20. Said statements are annexed as Annexures P-2 and P-3. On 08.07.2024, statement of Inspector Satish Kumar was recorded as PW-24 and during examination-in-chief, pendrives were played before learned trial Court but same were not in working condition. Therefore, examination-in-chief was deferred. Copy of said statement of Inspector Satish Kumar PW-24 is Annexure P-4. On the same day, learned trial Court passed impugned order vide which notice was issued to Investigating Officer to produce other pendrives available with him regarding this case. On 02.08.2024, Investigating Officer produced two pendrives before trial Court and same were taken on record by recording statement of Investigating Officer, without giving any opportunity to petitioner to oppose the same. Learned trial Court arbitrarily directed Investigating Officer to produce any other pendrive with respect to present case without ascertaining whether the contents of said pendrives were exact replicas of earlier pendrives which were annexed with challan report. It was not ascertained whether these pendrives were from an authentic source. Therefore, possibility of tampering of said pendrives cannot be ruled out. No proper procedure was followed at the time of producing pendrives in evidence. Learned counsel for petitioner conceded that learned trial Court has ample power to



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summon any witness/evidence at any time during the trial, but at the same time, it should be kept in mind that while summoning any witness or evidence, it must be from a reliable and authentic source. With these arguments, it was prayed that impugned orders dated 08.07.2024 and 02.08.2024 passed by learned trial Court may kindly be set aside with the direction to trial Court to follow proper procedure as prescribed under Code of Criminal Procedure, 1973, for taking on record the said pendrives.

3. On asking of the Court, Mr. Rupinder Singh Jhand, Addl. AG Haryana appeared on behalf of respondent-State on 04.09.2024. He pointed out that learned trial Court was having ample power to requisition the record *suo moto* and pendrives were being called concerning this case from Investigating Officer. Therefore, objection raised regarding authenticity of said pendrives is without any justification. Learned counsel for accused could have cross-examined the concerned witness on this point at the relevant time. Therefore, revision preferred by petitioner deserves dismissal.

4. I have considered the arguments and have gone through the record. Learned counsel for petitioner has placed on record all relevant statements on file for proper adjudication of present revision. It is not disputed that prosecution examined Saurav Tripathi PW-19 to prove on record pendrive Ex. PAJ/PW19 and concerned witness also proved certificate issued by him under Section 65-B of Indian Evidence Act Ex.PAI/PW19. Said witness was cross-examined at length. Thereafter, prosecution examined Ravinder PW-20, who proved pendrive Ex.PAM/PW20 and certificate under Section 65-B of Indian Evidence Act



Ex.PAL/PW20. This witness was also cross-examined by learned counsel for accused and was also re-examined by learned Public Prosecutor representing State. When the statement of Inspector Satish Kumar PW-24 was being recorded in examination-in-chief, aforesaid pendrives were played in Court and same were not in working condition. At this stage, learned trial Court passed impugned order dated 08.07.2024 for issuing notice to Investigating Officer regarding availability of other pendrives with regards to present case, and if available, to produce the same on record on the next date. On the next date i.e. 02.08.2024, SI Narinder Singh, No. 1806, produced two pendrives from police file in compliance to previous order and same were taken on record by recording his statement in Court. Learned trial Court started recording statement of Inspector Satish Kumar for further examination-in-chief. When it was objected by learned counsel for accused, it was accordingly deferred. There is no doubt that trial Court, on its own, can call any material witness relevant to the facts of case. Section 311 of Code of Criminal Procedure, 1973 runs as under:-

**“311. Power to summon material witness, or examine person present.** Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

5. Therefore, in the light of aforesaid provision, learned trial Court could have called upon the Investigating Officer with regards to availability of other pendrives available in police file. Therefore, there is no reason to interfere with order dated 08.07.2024 by which trial Court gave notice to



Investigating Officer for producing pendrives available in police file.

But before relying upon the said pendrives, proper procedure was required to be followed. Source of said pendrives, their authenticity and contents of pendrives were required to be looked into. Even earlier, pendrives were proved on record by examining Saurav Tripathi PW-19 and Ravinder PW-20. Once the said pendrives were produced in Court, it was obligatory on Court to provide copies of said pendrives to accused for preparing their defense. Therefore, said pendrives could have not been proved or exhibited by merely producing it while recording statement of Inspector Satish Kumar PW-24. Consequently, impugned order dated 02.08.2024 is set aside, with direction to learned trial Court to follow proper procedure for taking said pendrives on record, by giving due opportunity to accused. With aforesaid direction, present criminal revision is accordingly disposed of.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

05.09.2024

*lalit*

(AMARJOT BHATTI)  
JUDGE

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No