



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

134

CRM-M-51481-2024

Date of decision: 18.10.2024

Manjinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ankush Singla, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking setting aside of order dated 08.07.2024 (Annexure P-1) passed by learned Special Court, Barnala, vide which the petitioner has been directed to give his voice sample in case FIR No.5 under Section 7 of the Prevention of Corruption Act, 1988 (as amended by the PC Act Amendment 2018) dated 06.02.2024 registered at Police Station Vigilance Bureau Patiala Range.

2. Learned counsel for the petitioner submits that there was no provision under the Cr.P.C. empowering the learned Trial Court to direct an accused to give his voice samples to the investigating agency.

3. Learned counsel for the petitioner further submits that vide the impugned order dated 08.07.2024 the learned Trial Court had erroneously directed the petitioner to give his voice sample to the investigating agency without following the guidelines issued by Hon'ble the Supreme Court.

4. Learned counsel for the petitioner also submits that mode and manner in which the voice sample of the petitioner was to be drawn



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had to be fair and reasonable having due regard to the mandate of Article 21 of the Constitution of India. Therefore, Hon'ble the Supreme Court had issued guidelines in ***Sudhir Chaudhary Vs. State (NCT of Delhi) : 2016(3) RCR (Criminal) 952***, that the text which an accused would be called upon to read out for the purpose of their voice sample would not have sentences from the inculpatory text.

5. I have heard learned counsel for the petitioner and perused the relevant material on record.

6. The issue that whether the Court has power to direct an accused to give his voice samples to the investigating agency for the purpose of investigation has been settled by a Three Judge Bench of Hon'ble the Supreme Court in ***Ritesh Sinha Vs. State of U.P. and another : 2019 SCC (8) 1***, wherein it was held that the Judicial Magistrate has the power to direct a person to give his voice sample for the purpose of investigation and the same does not violate his fundamental right against self incrimination as guaranteed under the Article 20(3) of the Constitution of India. The reason lies in the distinction between testimonial evidence and physical evidence. Testimonial evidence involves a person sharing their knowledge or thoughts, which can directly incriminate them, on the other hand, physical evidence involves attributes of a person—like finger prints, blood samples, or even voice samples—which do not involve any mental or communicative act on their part. Hon'ble the Supreme Court in ***Ritesh Sinha's case (supra)*** also pointed out that a voice sample is not an act of communication; it is simply a record of physical attribute



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—a person's voice, something which a person cannot control in terms of its inherent features. Therefore, providing a voice sample does not mean that a person is giving his testimony against himself.

7. Hence, in view of the above judicial pronouncements of Hon'ble the Supreme Court there can be no manner of doubt that voice samples are essential for the purpose of investigation and would not breach the right of an accused under Article 20(3) of the Constitution of India and thus the accused can be ordered to give his voice samples to the investigating agency.

8. This Court also does not find any merit in the contentions raised by learned counsel that the learned Trial Court had erred in not following the guidelines laid down by Hon'ble the Supreme Court in *Sudhir Chaudhary's case (supra)* as a perusal of the impugned order reveals that the learned Trial Court has explicitly directed the investigating agency to take the voice samples of the petitioner as per the directions laid down in *Sudhir Chaudhary's case (supra)*.

9. In light of the above judicial pronouncements, this Court does not find any merit in the instant petition which stand dismissed accordingly.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

18.10.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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