

2025:PHHC:034788



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

CRR 458 of 2025

Date of Decision: 28.02.2025

State of Haryana

...Petitioner

Versus

Suresh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Gurmeet Singh, AAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The State of Haryana has filed the present revision petition against the impugned order dated 13.01.2025 passed by the Court of Sessions Judge, Hisar, whereby, the application under Section 173(8) Cr.P.C. for directing further investigation in a case FIR No. 214 dated 24.02.2017 under Sections 120-B IPC and Sections 7, 8, 10, 12 and 13 of PC Act, Police Station Civil Lines, Hisar, was ordered to be dismissed.

2. Learned State counsel submits that the FIR in the present case was registered on 24.02.2017. In fact, during the investigation of case FIR No. 239 dated 15.04.2011 under Sections 224/120-B IPC, Police Station Civil Lines, Hisar, one Airtel Mobile No. 9996599996 was taken on interception after getting due permission from the competent authority and in one of the conversations on this mobile

number, the demand of bribe of Rs. 1.50 lacs was made by a person, who appeared to be a public servant, in connection with some official work relating to the office of DC/ADC, Hisar. The verification report together with intercepted conversation and copy of relevant file noting of the ADC office had disclosed the commission of an offence. Thereafter, the FIR was registered and the challan in the present case was presented on 13.08.2018. Even, a supplementary challan against M.L. Kaushik, the then DC, Hisar, was also presented on 09.05.2020. Thereafter, the trial progressed and during the trial, the present application under Section 173(8) Cr.P.C. was filed before the trial Court and it was stated that the voice samples of Suresh and Rakesh, both the accused could not be obtained and matching of their voices was essential for the just and fair decision of the case. In fact, the Investigating Agency had to obtain the CD containing of the voice recordings for further analysis of the CD in a forensic lab. Even, the trail of money, which was the bribe amount also need to be investigated. Learned State counsel further submits that no prejudice would be caused to the accused if the prayer is allowed and the matter is allowed to be investigated further.

3. I have learned the learned State counsel and perused the record carefully.

4. In fact, one another case, i.e. FIR No. 239 dated 15.04.2011 under Sections 224/120-B IPC, Police Station Civil Lines,

Hisar was being investigated by the police and during the investigation of the said case, one mobile No. 9996599996 was taken on interception and during interception of that mobile number, a conversation of a demand of bribe of 1.50 lacs was made by a person, who appeared to be a public servant in connection with some official work relating to the office of DC/ADC Hisar. The matter was thoroughly examined by DDA and a verification report was prepared and the FIR was registered against M.L.Kaushik, the then Deputy Commissioner and other accused persons with the allegations that the accused had taken bribe from Rakesh Gupta, co-accused and allotted him the tender of supplying the gym equipments. From the record, it is apparent that the voice samples of Satish, accused were taken and were analyzed in the FSL with the voice recorded in CD. Even, the call details of all the accused were taken and a challan was submitted by the police in the year 2018 against Satish Kumar, Rakesh Gupta and Suresh Sharma. Even, a supplementary challan was presented against M.L. Kaushik, the then DC Hisar. Thereafter, the prosecution examined about 40 witnesses and when the case was listed before the Court at the fag end, the present application under Section 173(8) Cr.P.C. was moved by the prosecution. In fact, the police had already taken the voice samples of the accused and had sent the same in FSL and the FLS report had already been received. Apart from that, the alleged conversation in CD were already in the knowledge as well as

the possession of the police since 2017 itself and the trial Court had rightly declined the prayer of the State of Haryana.

5. Still further, the Hon'ble Supreme Court has repeatedly emphasized that the power to order further investigation/re-investigation is a significant power and it has to be exercised sparingly and in exceptional cases. In the present case, the Sessions Judge has rightly held that all the material was within the knowledge of the Investigating Agency for the last about 07 years and still no efforts were made to investigate the case further. Further, no fresh evidence has been found in the present case, which may warrant further/re-investigation. Even, the Hon'ble Supreme Court has held in the matter of ***K. Vadivel Vs. K. Shanthi and others, 2024 AIR Supreme Court 5064*** as under:-

*“33. However, the further investigation cannot be permitted to do a fishing and roving enquiry when the police had already filed a charge-sheet and the very applicant for further investigation, in this case respondent no. 1, has not whispered about anything new in her evidence as is now sought to be averred in the application. There must be some reasonable basis which should trigger the application for further investigation so that the court is able to arrive at a satisfaction that ends of justice require the ordering/permitting of further investigation. In ***Hasanbhai Valibhai Qureshi vs. State of Gujarat & Ors., (2004) 5 SCC 347***, this Court held as under:-*

*“13. In **Ram Lal Narang v. State (Delhi Admn.) [(1979) 2 SCC 322]** it was observed by this Court that further investigation is not altogether ruled out merely because cognisance has been taken by the court. When defective investigation comes to light during course of trial, it may be cured by further investigation, if circumstances so permitted. It would ordinarily be desirable and all the more so in this case, that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the matter by the courts. In view of the aforesaid position in law, if there is necessity for further investigation, the same can certainly be done as prescribed by law. The mere fact that there may be further delay in concluding the trial should not stand in the way of further investigation if that would help the court in arriving at the truth and do real and substantial as well as effective justice. We make it clear that we have not expressed any final opinion on the merits of the case.”*

*34. In **Vinay Tyagi vs. Irshad Ali alias Deepak & Ors., (2013) 5 SCC 762**, this Court dealing with the aspect of the power of Magistrate to direct further investigation had the following to say:*

“41.The power of the Magistrate to direct “further investigation” is a significant power which has to be exercised sparingly, in exceptional cases and to achieve

the ends of justice. To provide fair, proper and unquestionable investigation is the obligation of the investigating agency and the court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the court, including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.”

6. In view of the above discussion, there is no merit in the present case and the petition is ordered to be dismissed.

28.02.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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