
(2019) 10 P&H CK 0136

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 18693 Of 2018

Daljeet Kaur

APPELLANT

Vs

Mohinder Singh

RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 311

Citation : (2019) 10 P&H CK 0136

Hon'ble Judges : Surinder Gupta, J

Bench : Single Bench

Advocate : Preetwinder Singh Dhaliwal, Amit Sharma, Ashok Bhardwaj

Final Decision : Dismissed

Judgement

Surinder Gupta, J

Heard.

This is petition against order dated 04.04.2018 passed by Judicial Magistrate Ist Class, Sangrur, dismissing application of the petitioner for calling CW-2 Inderjit Garg for giving sample of his voice.

Earlier on the application of petitioner dated 05.07.2017, CW-2 Inderjit Garg was allowed to be recalled to confront him with his conversation recorded on a hidden camera. He again appeared on 27.02.2018 and admitted his presence in the video but denied his recorded voice. He was, however, not confronted with his alleged statement recorded by the petitioner. Further cross-examination of CW-2 Inderjit Garg (Annexure P-4) is as follows:-

"Statement of Inderjit Garg s/o Sita Ram, aged about 33 years. Recalled for further cross-examination after allowing application of accused under section 311 Cr.P.C.

XXXXXXXXXXXX by Sh. G.S. Grewal, Advocate, counsel for accused.

Stated that I work with my father in a pesticides and fertilizer shop. I do not know Sukhjinder Singh. I do not remember if on 23.03.2017, Sukhjinder Singh had visited my shop and had talk with me regarding this case.

At this stage Id. Counsel for the accused has prayed for permission to play CD (Ex. DW3/A) and pen drive is Ex. DW3/C and to confront the same to the witness. Heard. Since the application under Section 311 Cr.P.C. has already been allowed, therefore, permission is granted.

After seeing the CD it appears that I am the person visible in the CD and it appears that I am shown in the CD as sitting inside my shop. I have heard the CD. The voice in the CD is not of mine. It is incorrect to suggest that the CD contains my voice. It is incorrect to suggest that I am intentionally denying the above fact.

I have heard the contents of the pen-drive but the voice in the same does not appear to be mine. I identify myself sitting in my shop in the pen-drive. It is incorrect to suggest that the pen-drive contains my voice. It is incorrect to suggest that I am intentionally denying the above fact. It is incorrect to suggest that I am deposing falsely at the instance of the complainant.

RO & AC Sd/-

Sd/- in English Inderjit Garg

(J.S. Mehndiratta)

JMIC Sangrur. 27.02.2018."

The petitioner then moved application for calling CW-2 Inderjit Garg to give his voice sample, which was dismissed by the trial Court with the observation that the same is not relevant.

The question, which arises for consideration, is as to whether allowing of permission to petitioner to obtain voice sample of CW-2 Inderjit Garg is relevant and a material piece of evidence.

The scope of provisions of Section 311 Cr.P.C. is very wide and the Court is competent to call for any evidence, which it finds relevant and material for disposal of the case. Previous statement of a witness can be used for confronting him with the same in order to discredit him. Admittedly, CW-2 Inderjit Garg was not confronted with his statement alleged to have been recorded in a video or pen-drive. In these circumstances, even if it is proved that the video/audio recording contains the voice of CW-2 Inderjit Garg, it will not serve any purpose as he was never confronted with contents of his statement allegedly recorded. In such circumstances, the evidence collected after taking his voice sample will not be relevant or admissible.

Learned trial Court has rightly looked into this aspect while dismissing the application of petitioner. The order passed by learned trial Court calls for no

interference in this petition.

Dismissed.