



CRR(F)-286-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**CRR(F)-286-2020**

Date of Decision:- 07.05.2025

**Krishan**

...Petitioner

Versus

**Suman and another**

...Respondents

**CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI**Present:- Mr. Sunil K. Nehra, Advocate  
for the petitioner.Mr. Jitender K. Sehrawat, Advocate  
for the respondents.

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**AMARJOT BHATTI, J.(Oral)**

1. Petitioner-husband Krishan (respondent in main case) has filed revision against impugned order dated 24.02.2020 passed by learned Principal Judge, Family Court, Fatehabad, vide which application filed by him for taking voice sample of Suman (petitioner No. 1 in main case) for comparison from Forensic Science Laboratory has been dismissed.

2. As per the facts, Suman and another filed petition under Section 125 Cr.P.C. claiming maintenance from Krishan Kumar. During the pendency of said petition, petitioner-husband Krishan (respondent in main case) filed application dated 17.02.2020 (Annexure P-1) for taking voice sample of Suman. It is the case of respondent-husband (petitioner in this case) that his wife i.e. petitioner No. 1 (respondent No. 1 in this case) used to mix some stupefying or intoxicant substance in food or drinks of respondent-husband, as a result he used to remain unconscious throughout the night and even remained numb on the following day. Petitioner No. 1-



wife used to have telephonic talk on her mobile phone for long duration with stranger i.e. Vinod @ Bholu son of Lilu Ram resident of village Manawali during odd hours. Respondent-husband heard them on 2-3 occasions. They were talking to finish him secretly and nobody will suspect them. Respondent-husband made strenuous efforts and found that his wife used to talk for long duration on mobile phone No. 80593-31284 and 85297-07357 belonging to Vinod @ Bholu. He also used to visit his house in his absence. Present petitioner-husband narrated one incident of 06.08.2015 when he left the house to meet somebody in village at 08:50 PM. He returned at about 09:10 PM and found that tubelight of main gate was off. When respondent-husband opened the door of bedroom, he found petitioner No. 1-wife and Vinod in compromising position. He slapped Vinod and confined him in a room. He called respectables of village namely Sahab Ram Ex-Sarpanch, Rameshwar Patwari and his cousin Diwan and others and also called father and brother of his wife and their relatives. When he opened the room, Vinod Kumar came out who said that he had deleted the details from his phone regarding their conversation and went away. Petitioner No. 1-wife was taken away by her father and brother after extending threats with dire consequences. His in-laws filed application before SP, Fatehabad. Police did not take any action against his wife and family even though she was living in adultery. Respondent-husband further alleged that he had got recovered conversation of petitioner No. 1-wife and said Vinod Kumar from mobile phone number 90686-08273 and mobile phone Nos. 80593-31284 and 85297-07357 having two sims which Vinod Kumar had left in his house on 06.08.2015. Present



petitioner-husband referred to conversation dated 11.04.2015, 28.05.2015, 09.06.2015, 19.06.2015 and 15.07.2015. It was submitted that in order to prove the said conversation of Suman with said Vinod @Bholu, her voice sample was required to be examined in Forensic Science Laboratory. It is pointed that in order to prove the ground of adultery, aforesaid evidence is material. Hence, the application.

3. Said application was opposed by petitioner No. 1-wife Suman by filing reply (Annexure P-2). She took objection that a false and concocted version has been created by her husband in collusion with his neighbor Golu son of Lilu Ram. In first application, it was nowhere stated that respondent-husband had snatched mobile phone of said Golu. Thereafter, he filed a divorce petition No. 112 of Hindu Marriage Act dated 25.08.2015, where incident of 06.08.2015 is referred but it was not mentioned that he had snatched mobile phone of said Vinod. This point has been raised for the first time while filing reply dated 25.01.2016. Now, respondent-husband claimed that he is having a chip of recording and in that case, he would have placed on record said chip on the file before hearing of application. During cross-examination of petitioner No. 1-wife, a new story has been coined by respondent-husband. This application was filed only to linger on the matter. It is pointed out that in case said chip/recording was already in custody of respondent-husband since 06.08.2015, why said recording/document was suppressed by him and not referred in previous litigation. The authenticity of conversation in said chip is yet to be ascertained. Respondent-husband remained mum for a long duration of three years. No transcript of said conversation has been



attached with application without which no proceedings for calling voice sample can be initiated. It is not clear in application in whose name said mobile phones stand and in whose mobile phone said conversation was recorded. Story put forward by respondent-husband is not plausible. A fake chip has been prepared by respondent-husband with the help of some other person by way of forgery. Version put forward by respondent-husband cannot be believed and there was a prayer to dismiss the application.

4. After hearing arguments advanced by learned counsel for both the parties, said application was declined by passing impugned order dated 24.02.2020.

5. I have heard the arguments. Learned counsel for petitioner-husband (respondent in main case) as well as learned counsel representing respondents (petitioners in main case) have argued present criminal revision as per the stand taken in application and reply thereto.

6. I have considered the stand taken by both the sides. It is matter of record that Suman and another filed petition under Section 125 Cr.P.C. claiming maintenance from her husband Krishan. Matrimonial dispute between the parties is clear from the facts of case. Apart from petition under Section 125 Cr.P.C. another litigation has also started. Facts of case indicate that application dated 17.02.2020 (Annexure P-1) was filed by petitioner-husband (respondent in main case) when statement of Suman as petitioner witness was being recorded. As per version of present petitioner-husband, he has levelled allegations that his wife Suman was having extra-marital affair with one Vinod @ Bholu with whom she used to have conversation on mobile phone during odd hours. He also claimed that on



06.08.2015, he caught his wife red handed with said Vinod @ Bholu. As per his version, Vinod @ Bholu left his mobile phone in his house and he happened to have possession of said mobile phone. Now he is in possession of a chip having conversation of his wife with said Vinod Kumar on different dates, as referred in his application. For the purpose of proving said recorded conversation of his wife with said Vinod Kumar, he filed this application for directing Suman to give her voice sample.

Allegations and counter allegations levelled by the parties against each other are matter of trial. Learned counsel representing respondents (petitioners in main case) rightly pointed out that in order to prove said mobile phone conversation, he was required to place on record said chip along with certificate of Section 65-B of Indian Evidence Act. Transcript of said conversation should have been attached with application. Straightway said chip having mobile phone conversation between two individuals cannot be presumed to be correct unless the source of said communication and authenticity of said recording is duly established. Petitioner-husband is required to prove aforesaid facts as provided under Section 65-B of Indian Evidence Act and thereafter, he could have filed application calling for voice sample of respondent No. 1-wife (petitioner No. 1 in main case). Case was fixed for petitioner evidence when present application has been filed. Petitioner-husband can lead his evidence regarding the facts narrated in his reply at appropriate stage and he can also examine concerned witnesses. No restriction can be put on petitioner-husband to lead his evidence which is relevant to adjudication of petition filed under Section 125 Cr.P.C. However, at this stage, when case was fixed



for petitioner evidence and the authenticity of said chip having disputed conversation is yet to be established, his application seeking permission to obtain voice sample of his wife was not justified.

7. It is also rightly observed by the trial Court that proceedings under Section 125 Cr.P.C. is not a trial in strict sense. Respondent No. 1-wife (petitioner No. 1 in main case) is not the complainant nor petitioner-husband (respondent in main case) is the accused. Purpose of proceedings under Section 125 Cr.P.C. is to ascertain the facts regarding grant of maintenance under the provisions of Section 125 Cr.P.C. which is summary in nature. This aspect of case was also rightly dealt with by the trial Court by relying upon the relevant case law.

8. Therefore, impugned order dated 24.02.2020 passed by the trial Court is fully justified from the facts and circumstances of case and same does not require any interference. Finding no merits in present criminal revision, same is, accordingly dismissed.

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

07.05.2025

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**(AMARJOT BHATTI)**  
**JUDGE**

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