

2025:PHHC:080788



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

CRM M-23910-2025

Date of Decision:13.05.2025

Constable Simranjeet Singh and others ...Petitioners
Versus
State of Punjab ... Respondent

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

Present : Mr. D.S. Sobti, Advocate with
Mr. Sultaan Singh Sangha, Advocate
for the petitioners.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.SHEKHAWAT, J.

1. The petitioners have filed the present petition before this Court with a prayer to set-aside the impugned order dated 29.04.2025 (Annexure P-1) passed by the Court of Additional Sessions Judge, SAS Nagar, Mohali and the order dated 16.04.2025 passed by the Court of Judicial Magistrate 1st Class, SAS Nagar, Mohali (Annexure P-2), whereby, the application for polygraph test of the petitioners was allowed by both the Courts in a case arising out of the FIR No. 01 dated 05.01.2024 under Sections 384, 201, 202, 506, 116 and 120-B IPC and Section 52-A (1) of Prisons Act (Punjab Amendment Act),

2011, Police Station Punjab State Crime, Phase-4, SAS Nagar, Mohali.

2. Learned counsel for the petitioners vehemently argued that the petitioners No. 1 and 4 were posted with Gursher Singh Sandhu, DSP (who has been dismissed from service), whereas, petitioners No. 2, 3 and 5 were posted at CIA Staff, Kharar, District SAS Nagar. It was alleged that on the night intervening 03.09.2022 and 04.09.2022, the interview of Lawrence Bishnoi was recorded in the premises of Police Station CIA Staff, Kharar. This Court had taken cognizance of the events connected with the said interview in CWP-PIL No. 93 of 2023 and ultimately one FIR No. 01 dated 05.01.2024 Police Station Punjab State Crime, Phase IV, SAS Nagar, Mohali was registered. Parbodh Kumar, Special DGP was made head of the 'SIT', which had taken over the investigation in the present case. Learned counsel further submitted that after he took over the investigation, the petitioners were threatened and were made to sign certain typed papers and clear directions were issued to them to sign on the said statements or suffer consequences. Even, they were repeatedly called by the police officers and were directed to go to the Court of Area Magistrate and to give their consent for the polygraph test.

3. Learned counsel further contended that on 4th April 2025, a notice under Section 160 Cr.P.C. was issued to the petitioners to

appear before the 'SIT' at 12.00 p.m. at Mohali Court, for the purpose of investigation in the present case. When they reached the Court, they were taken to the public prosecutor, who asked the petitioners regarding their consent for polygraph test. Each of the petitioners except Constable Harpreet Singh stated that they should be given time to consult their lawyer and doctor whereas Constable Harpreet Singh declined the consent out-rightly. Thereafter, on 12.04.2025 another notice under Section 160 Cr.P.C. was received by all the petitioners and they were directed to give their consent for the polygraph test. Even subsequently, they were pressurized to either give consent or to face the consequences. Learned counsel further submitted that on 16.04.2025, the petitioners coerced to make statements before the Court of Judicial Magistrate 1st Class, Mohali and on the basis of their consent, the present application was allowed illegally. Even, the petitioners had filed a revision petition and vide the impugned order (Annexure P-1), the Court of Additional Sessions Judge dismissed the petition filed by the petitioners.

4. Learned counsel for the petitioners vehemently argued that the trial Court as well as the revisional Court had completely overlooked the mandate of law, as elaborated by the Hon'ble Supreme Court in the matter of *Selvi and others Vs. State of Karnataka, (2010) 7 SCC 263*. The consent was obtained from petitioners under duress and the application was wrongly allowed. Even, before

conducting of polygraph test, the petitioners had filed their individual affidavits (Annexure P-9) and had withdrawn their consent before the revisional Court. Still further, in the present case, the role of the petitioners was being investigated and, therefore, the protection under Article 20(3) of the Constitution of India was available to the petitioners. Moreover, the counsel for the petitioners was not available at the time of recording of their statements by the Judicial Magistrate 1st Class.

5. On the other hand, learned State counsel submitted that earlier also, the petitioners had appeared before the Court of JMIC, Mohali on 05.04.2025 and on that day, the statements of all the petitioners were recorded. The majority of the petitioners had stated that they were not willing to undergo the polygraph test at that moment as they wanted to consult their legal counsel and they may be granted time for consulting their counsel. However, Constable Harpreet Singh had refused to undergo polygraph test, whereas, Mukhtiar Singh stated that he was a patient and did not give his consent for polygraph test. Thereafter, the petitioners consulted their counsel and an application was moved for conducting the polygraph test of the petitioners on 16.04.2025, the Court of Judicial Magistrate 1st Class, Mohali, recorded the statements of all the petitioners and they all consented for conducting the polygraph test out of their own free will, without any coercion or pressure from any side. They also

stated that they had consulted their counsel and they had been told about the legalities of voluntarily going through the polygraph test. In fact, after recording their statements, the Court had ordered for conducting the polygraph tests of the petitioners, as per the Rules. Learned State counsel further submitted that even the revision petition filed by the petitioners has been dismissed and the present petition amounts to second revision, which is not maintainable before this Court.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, all the petitioners were arrayed as accused in a case arising out of FIR No. 01 dated 05.01.2024 under Sections 384, 201, 202, 506, 116 and 120-B IPC and Section 52-A (1) of Prisons Act (Punjab Amendment Act), 2011, Police Station Punjab State Crime, Phase-4, SAS Nagar, Mohali, which was registered by the police with regard to the interview of Lawrence Bishnoi, a notorious gangster on the night intervening 03/04.09.2022, which was recorded in the premises of Police Station CIA Staff, Kharar. During the investigation of the said case, one 'SIT' was constituted, which was headed by Parbodh Kumar, Special DGP, Punjab Police. Further, various notices were issued under Section 160 Cr.P.C. to the petitioners to appear before the members of the 'SIT', in compliance of the orders passed by this Court in CWP-PIL-93-2023 and

connected matter and the petitioners appeared before the 'SIT' from time to time. On 05th April 2025, all the petitioners appeared before the JMIC, Mohali except Constable Harpreet Singh and had stated that they were not willing to undergo polygraph test at that moment as they wanted to consult their counsel and time may be granted to them, so that they may consult their counsel. However, Constable Harpreet Singh petitioner No. 4 had expressed his unwillingness to undergo the polygraph test. Since on that day, the consent was not given by the petitioners and rather they had taken time to consult their counsel, the case was adjourned to 09.04.2025. On 09.04.2025, the petitioners did not appear before the Court for making any statement. However, on 16.04.2025, again an application was moved for giving their consent to undergo polygraph test and the Court of Judicial Magistrate 1st Class recorded the statements of all the petitioners separately and on the basis of the said consent, the application was allowed and all the petitioners had made the following statement individually:-

“Stated that I voluntarily give my consent for conducting the polygraph test. I may give above said consent out of my own free will and without any coercion and pressure from any side. I have consulted by legal counsel and I have been told about the legalities of voluntarily going through the polygraph test.”

8. From the above referred statement made by each of the petitioners separately before the Magistrate, it is apparent that all the petitioners were given access to their counsel and after getting legal

advice, all the petitioners had agreed to make a statement before the JMIC, Mohali. Even, the petitioners were apprised of the legalities of voluntarily going through the polygraph test by the Court. Even otherwise, the consent was recorded before a Judicial Magistrate 1st Class and a sanctity is always attached to such proceedings. Even, it is clear that the Magistrate must have verified that the statements were not made under any duress, coercion or threat. Even otherwise, the statements were recorded by the Magistrate herself and simply because of the fact that at the time of passing of final order by the Court, some member of the 'SIT' was present in the Court would not make any difference.

9. Still further, I have carefully perused the findings recorded by the revisional Court and the same do not suffer from vice of any material irregularity or illegality. Thus, finding no merits, the present petition is ordered to be dismissed.

13.05.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

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