

State Vs. Sajjad Alam

FIR No. 130/2020

PS: I.P Estate

रिषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
31s Hazari Courts, Delhi

22.07.2020:

Present: Sh. Vakil Ahmad, Ld. APP for State (through VCC over Cisco Webex)

SI Mohit Asiwali (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:28 PM.

Arguments heard. Record perused.

This order shall dispose off application seeking permission for obtaining blood samples of accused Sajjad Alam for DNA profiling, moved by applicant IO/SI Mohit Asiwali.

It is submitted that accused Sajjad Alam is undergoing judicial custody in present case. It is further submitted that matter is at the stage of investigation and potency test of accused was done on 22.06.2020. It is further submitted that blood samples are required to be collected for his DNA profiling.

IO/SI Mohit submits that as the accused tried to flee away from hospital when he was taken for his potency test, hence his blood samples could not be obtained at that time for DNA profiling.

IO/SI Mohit Asiwali further submits that accused is lodged at Tihar Jail, Delhi and his blood sample is required to be taken at RML Hospital, Delhi.

At this juncture, it becomes pertinent to mention that Hon'ble Supreme Court in the case of **State of Bombay v. Kathi Kalu Oghad & ors AIR 1961 SC 1808** held that:

When an accused person is called upon by the Court or any other authority holding an investigation to give his finger impression or signature or a specimen of his handwriting, he is not giving any testimony of the nature of a 'personal testimony'. The giving of a 'personal testimony' must depend upon his volition. He can make any kind of statement or may refuse to make any statement. But his finger impressions or his handwriting, in spite of efforts at concealing the true nature of it by dissimulation cannot change their intrinsic character. Thus, the giving of finger


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impressions or of specimen writing or of signatures by an accused person, though it may amount to furnishing evidence in the larger sense, is not included within the expression 'to be a witness'.

Thus the court established that, giving of fingerprint or collection of any other evidence of 'private nature' does not essentially attract the maxim nemo debet proderese ipsum, i.e., no one can be required to be his own betrayer; as the latter would mean that a person has produced knowledge through his own volition that would establish his guilt, either by way of undue influence, coercion or threat or not.

In the light of authority discussed above, it can be said that it is no more *res integra* that tests in nature of DNA test etc. constitutes any other evidence of private nature which is not self incriminating evidence and thus not prohibited by doctrine of self incrimination under article 20(3) of Indian Constitution. Even otherwise also, in cases involving sexual offences the collection of blood samples of accused for DNA profiling, is permitted for investigation purposes vide combined operation of Section 53 and 53A of Cr.PC. Accordingly, the present application is allowed with a direction to concerned Jail Superintendent to ensure production of accused Sajjad Alam for collection of his blood samples for DNA profiling, before concerned doctor at RML Hospital.

Application is disposed off.

Scanned copy of this order is being sent to Sh. Atma Ram (Ahlmad) through whatsapp/email for transmitting the same to the applicant IO/SI Mohit Asiwat and concerned Jail Superintendent through all permissible modes including email, for compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
22.07.2020

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी
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Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

Jaswinder Singh Vs. HDFC Bank Ltd. & Ors..

CC No. 16186/2018

PS : I. P. Estate

22.07.2020

Present: Sh. N.K Pandey Ld. Counsel for complainant (through VCC over Cisco Webex)

Case taken up for hearing through VCC over Cisco Webex at 11:56 AM.

Matter was fixed for arguments on application u/s 156(3) Cr.PC. for today, vide enbloc dates given on account of Covid-19 pandemic.
Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

On 21.07.2020 the instructions were given to Sh. Awdhesh Kumar Rai (Reader) to contact counsel for complainant and coordinate for scheduling the hearing through VCC over Cisco Webex.

Reader had informed that counsel for Complainant is willing to advance arguments through VCC over Cisco Webex application.

Today i.e on 22.07.2020, the case record was sent to the residence of undersigned by Sh. Atma Ram (Ahlmad).

Arguments on point of application u/s 15(3) Cr.PC. heard.

Put up for clarifications, if any and orders on **27.07.2020 at 12:00 PM.**

Scanned Copy of this order is being sent to Sh. Atma Ram (Ahlmad) through whatsapp/email for transmitting it to counsel for complainant, electronically and also for uploading on CIS.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
22.07.2020