

HARI CHAND

ADVOCATE

ਹਰੀ ਚੰਦ

ਵਕੀਲ

PUNJAB & HARYANA HIGH COURT

ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈ ਕੋਰਟ

H. NO. 2299,

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ਸੈਕਟਰ 44- ਸੀ

ਚੰਡੀਗੜ੍ਹ 160045

DATED: 19.6.2019

To,

The Secretary, Government of India,
Department of Law and Justice, A-Wing
Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

Subject:- Demand for amending the provisions of Section 161 of the Criminal Procedure Code, 1973, so as to make it compulsory for the Investigating Officers all over India to record the statements of witnesses under Section 161 Cr.P.C., by audio-video and electronic means.

By E-mail

Secy-jus@gov.in; ravis@sansad.nic.in; skmishra74@nic.in

Dear Sir,

I hereby serve the following demand notice on you, on my behalf:-

1. That the proviso to Section 161 (3) of the Criminal Procedure Code, 1973, confers a discretion on the Investigating Officer of the Police to record the statements made by any person under Section 161 (3) of Cr.P.C. by audio-video electronic means also. The provisions of the said Section are reproduced hereunder:-

“161. Examination of witnesses by police. (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Provided that statement made under this sub-section may also be recorded by audio-video electronic means.”

2. That the Hon’ble High Court of Punjab and Haryana at Chandigarh has given a judgment in CRA-D-564-DB-2014 (Abhijeet Singh alias Ankur Likhari Vs. State of Punjab) decided on 28.5.2019, issuing, inter-alia, the following directions to the State of Punjab:-

“8. All the Investigating Officers in the State of Punjab are directed to record the statements under Section 161 Cr.P.C. by audio, video and electronic means forthwith as per Section 161 Cr.P.C.”

3. That I am of the considered view that in case the aforesaid direction is followed, that would minimize the incidence of witnesses turning hostile, (particularly the Government employees/Police officials, appearing as prosecution witnesses, turning hostile). That would result into increase in conviction rate, and would lead to conviction of such accused, who otherwise would escape the clutches of law by/in conspiracy with the witnesses (particularly Government employees/Police officials appearing as witnesses). The aforesaid direction issued by Hon’ble High Court of Punjab and Haryana at Chandigarh, therefore, deserves to be emulated and followed by all States.

I would therefore, call upon you to consider this matter with all the seriousness it deserves and to make appropriate amendments in the provisions of Section 161 of Criminal Procedure Code, 1973, as directed by Hon’ble High Court to the State of Punjab. In case the needful is not within a period of two months from the date of receipt of this notice by you (which is being sent by e-mail), in that event, I shall be left with no other alternative except to file a Public Interest Litigation (PIL) in the Hon’ble High Court of Punjab and Haryana at Chandigarh for seeking redressal of my aforesaid legitimate grievance, in public interest.

Meanwhile, please acknowledge receipt of this notice.

Thanking you.

(H.C. ARORA)

ADVOCATE

ENCLOSURE: Copy of Judgment of Hon'ble High Court.