

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

CR No.535 of 2014

Date of Decision:11.12.2015

Gurcharan Singh

.....Petitioner

Vs.

Major Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present:- Mr. Arvind Bansal, Advocate for the petitioner.

Mr. Prateek Mahajan, Advocate for the respondent.

K. KANNAN, J.(Oral)

The revision petition is against the order rejecting an application filed by the defenedant that the plaintiff shall be compelled to give a voice sample to make a comparison of certain admissions made in a panchayat in the presence of certain persons in the village. The Court declined the prayer.

The case would require to be dismissed for the simple reason that statements said to have been made in the Panchayat, even if true, cannot be used as an admission in the light of the statutory interdict contained in Section 23 of the Evidence Act. Section 23 of the Evidence Act reads thus:-

“In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.”

The circumstances which the Court will make an inference that the parties did not intend that the statements could be used as admission have been explained in several decision of various Courts. This Court

has held in Surjit Kaur v. Gurcharan Singh, 1972 PLR 726, where the Court was examining the issue in a petition filed under Section 9 of the Hindu Marriage Act. Both the parties were trying to effect a compromise during the proceedings and a letter confessing that the husband was guilty and he was seeking an apology from the wife's father, was sought to be relied on. The husband claimed privilege regarding the same on the ground that it was written when the talks of compromise were being done. The Court held that the husband could claim such a privilege regarding the same and it would be barred from being relied on under Section 23 of the Evidence Act. This judgment squarely covers the issue. But for the sake of a preparation of the law on the subject, I will also refer to the decisions relied on by counsel appearing on behalf of the respondent, Shibcharan Das v. (From) Gulabchand Chhotey Lal, AIR 1936 Allahabad 157 and Sri Bauribandhu Mohanty and another v. Sri Suresh Chandra Mohanty and others, AIR 1992 Orissa 136 that reiterate the same view.

The order rejecting the application filed by the petitioner before the Court below is justified and there is no scope for interference.

Revision petition is dismissed.

December 11, 2015
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(K.KANNAN)
JUDGE