

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No. 7155 of 2014 (O&M)

Date of decision: 23.03.2015

Anurag Kalia

... Petitioner

versus

State Bank of India and others

.... Respondents

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

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Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Inder Pal Singh Doabia, Advocate,  
for the respondents.

**K.Kannan, J.**

The revision petition is at the instance of the plaintiff, who has challenged the departmental proceedings and punishment given to him. During the course of the trial, the plaintiff is reported to have filed a petition to produce some documents from the enquiry file which was complied with. Later, he filed an application to summon the documents from the respondent-Bank. The documents which were produced by the witness have been received, but, the defendant was allowed to cross-examine him and elicit the information through the said witness matters which he was not personally aware. The plaintiff sought permission to cross-examine, but, the Court rejected, because the plaintiff himself had summoned the witness and he cannot, therefore, cross-examine. I find the whole exercise undertaken by the Court to treat him as a plaintiff's witness not correct, because he had summoned him only to produce documents as an officer of the defendant-Bank. Section 139 of the Indian Evidence Act states that a person summoned to produce a document does not become a witness by a mere fact that he produces it

and cannot be cross-examined unless and until he is called as a witness. This will operate as an bar both for the plaintiff and the defendant to cross-examine the person who tendered the documents. While I deny to plaintiff right to cross-examination. I will eschew the evidence that was elicited by the defendant by cross-examining the Officer of the Bank which was defending the action of the plaintiff. The whole of the documents produced by an officer of the Bank are required to be exhibited as defendant's admission through documents.

Learned counsel for the respondents makes the reference to the judgment in State of Bihar Vs. Lalu Prasad alias Lalu Prasad Yadav, 2002 (4) RCR Criminal, which held in the context of Section 154 of the Evidence Act, that a public prosecutor can disown the statement brought through a witness who was treated as hostile. I have already held that the witness that was summoned by the plaintiff could not be treated as his own witness and cannot be taken as statement of hostile witness. In this case, I hold that any attempt by either of the plaintiff or defendant to elicit any statement from the person that was directed to produce some document was irregular procedure and be set aside, since the documents are from defendant's office. The documents shall be exhibited on the defendant side in the order in which the exhibits are numbered. The statement of the witness recorded by the Court is ordered to be eschewed.

With these observations, civil revision petition is disposed of.

**(K.KANNAN)**  
**JUDGE**

23.03.2015

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