

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-27279 of 2014

Date of decision: 16.01.2015

Naresh Kumar Arora

.....Petitioner

versus

Smt.Raminder Bakshi

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Ms.Ekta Thakur, Advocate for the petitioner
Mr.D.S.Sobti, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present petition is the order dated 31.7.2014 (Annexure P1), passed by the learned Judicial Magistrate 1st Class, Chandigarh, vide which, the application of the petitioner/complainant for summoning the witness was dismissed.

During the arguments, learned counsel for the petitioner has not disputed the legal position that report under Section 202 Cr.P.C. submitted by the police is part of judicial file and need not be formally proved. However, it has been pressed that the petitioner should be allowed to prove the agreement (Ex.C1) by summoning the original agreement from the Civil Suit, pending in the Court of learned Civil Judge, Senior Division, Mohali.

The prayer has been seriously opposed by the opposite

counsel, who has stated that in the statement of the petitioner, photocopy of the agreement was exhibited saying that he has brought the original. However, during cross-examination it came out that the original is lying attached in the civil suit. It is also not disputed that in the said case arguments on charge have been heard and case is reserved for orders.

This is a complaint case in which photocopy of the agreement has been proved though by making wrong assertion. Now the complainant wants to prove the said agreement by summoning the original. The said document is material evidence and the complainant is not be penalized for delay or on any other ground. Accused can be compensated by way of costs.

Therefore, in the interest of justice, the impugned order dated 31.7.2014 (Annexure P1) is set aside and the petitioner is allowed to prove the agreement (Ex.C1) by summoning the original from the file of the Civil Court, subject to costs of Rs.1000/-. The petitioner shall file the necessary diet money before the concerned learned Magistrate within fifteen days and take the summons of the witness dasti and produce the Ahlmad of the Court of Civil Judge (Sr.Division) along with the original file on 19.3.2015, which is stated to be the next date of hearing and the complainant will also allowed to be re-examined only to prove the agreement (Ex.C1).

The petition is accordingly allowed.

16.01.2015
gk

(Kuldip Singh)
Judge