

In the High Court of Punjab and Haryana at Chandigarh

CRR No.524 of 2010
Date of decision: 15.01.2015

Prabhu

.....Petitioner

Versus

Jeevan Ram

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.P.S.Jammu, Advocate for the petitioner.
Mr.A.S.Gulati, Advocate for the respondent.

SABINA, J.

Petitioner has filed this petition challenging order dated 14.7.2009 whereby the Court of revision set aside the summoning order dated 3.1.2007 (Annexure P4) passed by the trial Court.

Learned counsel for the petitioner has submitted that in a suit filed by respondent for recovery, it was held that the signatures on the vouchers had been obtained at the time when the signatory was under the influence of psychiatric disease. It was further held that there was no occasion for Mani Ram to have taken such a huge amount of loan in a span of two months. The colour of ink and writing on the vouchers was almost the same which reflected that the same had been prepared at one time.

Learned counsel for the respondent, on the other hand, has submitted that although, the petitioner had taken up the plea that his father was suffering from some mental disease but no doctor in support of the said plea had been examined by the respondent while leading his preliminary evidence.

The case of the complainant as per the complaint (Annexure P1), in brief, is that his father Mani Ram was aged about 70 years. Complainant party used to sell its produce to respondent-Jeevan Ram. On April 13,2004, complainant took his father to the shop of a Doctor for getting medicine. Thereafter, the complainant came to the shop of the accused. Complainant left his father at the shop of the accused and himself left to purchase medicine. Accused took signatures of the father of the complainant on certain Accounts books and other papers with an intention to cheat the complainant party.

A perusal of the summoning order dated 3.1.2007 (Annexure P4) reveals that the complainant while leading his preliminary evidence, has examined Indraj as PW1, Gurmail Singh as PW2 and Gurmeet Singh as PW3. Complainant himself appeared in the witness box as PW4. However, complainant, while leading his preliminary evidence, has failed to examine any medical expert to establish the plea that his father was suffering from any mental disease or was under treatment in this regard. Appellate Court, while allowing the revision petition, filed by the accused has held as under:-

“There is a merit in the contention of learned counsel for the revisionist. Taking into consideration that the recovery suit has been filed by the revisionist and this is a counter blast of the same. If the report which has been submitted by Mukesh Chand ASI under Section 202 of Cr.P.C. is taking into consideration then the same clearly shows that father of the respondent used to be Lumberdar of the village and he used to collect money from the farmers and used to deposit the same in Govt. Treasury. In case he was not having sound mind then it is not possible that he used to collect money and to deposit the same in Govt. Treasury. It is highly improbable that when the respondent left his father on the shop of revisionist he obtained his signatures on his account books in the presence of aforesaid witnesses who appeared in preliminary evidence and this fact has not been disclosed by them to the respondent. Perusal of preliminary evidence clearly shows that all of them have made a parrot like statements and the Magistrate is not supposed to pass a mechanical order for summoning of the revisionist. A recovery suit has been filed by the revisionist and to defeat his right the present complaint has been filed by the respondent. Since the order under challenge is not sustainable in the eyes of law, hence, the same is hereby set aside. Lower court record be sent back alongwith copy of this judgment. Revision file be consigned to the records.”

In the facts and circumstances of the present case, the reasons given by the Court of revision, while allowing revision petition filed by

the accused, are sound reasons and call for no interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

January 15,2015
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