

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-843-2014

Date of decision : 25.02.2015

Piyush Goel and others

... Petitioners

Versus

Harpreet Singh and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Manoj Bajaj, Advocate
for the petitioners.

Mr.Parminder Singh, Advocate
for the respondents.

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure lays challenge to order dated 28.11.2013 (Annexure P5) passed by the Judicial Magistrate Ist Class, Karnal whereby application for comparison of specimen thumb impressions with already photographed disputed thumb impressions by Fingerprint Expert of the complainant has been allowed.

The facts relevant for disposal of present petition are that Harpreet Singh (complainant) filed the complaint against the petitioners and proforma respondent No.2 for offence punishable under Sections 419, 420, 464, 467, 468, 471, 167, 218 read with Section 34 of the Indian Penal Code on the allegations that apart from other documents, accused have forged a General Power of Attorney registered in the office of Sub Registrar, Tehsil Beena, District Sagar, Madhya Pradesh. Neither the complainant nor any of his relatives ever visited Tehsil Beena to execute and register the alleged

power of attorney.

Counsel for the petitioners contends that application filed by the complainant for inspection of summoned record with assistance of Sh. Ram Dhan Babbar (handwriting / finger print expert) and for taking photographs of disputed signatures / thumb impressions was allowed by the trial Court vide order dated 16.05.2012 (Annexure P1). The complainant was directed to supply a copy of photographs to the other party but the complainant never complied with the directions of the Court. Thereafter, another application was filed by the complainant for getting specimen signatures in the Court for comparison with the disputed signatures by the aforesaid expert and the said application was disposed of vide order dated 02.08.2013 (Annexure P5) and the application was ordered to be dismissed.

Ram Dhan Babbar, the expert engaged by the complainant prepared his report in regard to purported comparison of disputed signatures of the complainant with his standard signatures available on documents in custody of the Court and the said witness was examined in the Court and cross-examined by the opposite party. Subsequent thereto, another application was filed by the complainant for getting specimen thumb impressions of the complainant for comparison with the disputed thumb impressions already photographed by the aforesaid expert which has been allowed by the trial Court vide impugned order dated 28.11.2013. It is argued with vehemence that in application for getting specimen signatures of the complainant for comparison, the complainant never requested for obtaining his specimen thumb impressions for the purpose of comparison.

The application filed by the complainant for getting his specimen signatures

was dismissed by the trial Court vide order dated 02.08.2013 and the same has attained finality. The fingerprints and handwriting expert, on the basis of his analysis of the disputed and standard signatures has already been examined in the Court. It is further argued that the complainant cannot be allowed to abuse and misuse process of Court to seek opinion in regard to the same document at different intervals and lead evidence in piecemeal. The application filed by the complainant for obtaining his thumb impressions in the Court for comparison with photographed thumb impressions, is nothing but an effort to fill up lacunae in the case.

Counsel for the respondent has supported the impugned order with the submissions that an omission / mistake on the part of the complainant and his counsel, to get his specimen thumb impressions obtained in the Court at the time of filing application for obtaining his specimen signatures should not be allowed to stand in his way to lead cogent evidence that the power of attorney registered in the State of Madhya Pradesh does not bear his thumb impressions.

I have heard counsel for the parties and perused the records.

It is an undisputed position of the case that the complainant has levelled allegations that the accused have forged a General Power of Attorney purported to be registered in the office of Sub Registrar, Tehsil Beena, District Sagar (M.P.). The said document bears the signatures and thumb impressions of the executant which are stated to be forged one. A witness from the office of registering authority appeared in the Court and the original record was photographed by the expert engaged by the complainant, with permission of the Court. The said expert prepared a report

in regard to comparison of disputed signatures with standard signatures of the complainant and was examined in the Court. It is not disputed that science of comparison of handwriting is not a foolproof one whereas on the contrary science of comparison of thumb and finger expressions is considered to be accurate. The mere fact that the complainant on an earlier occasion by filing application for getting his specimen signatures did not pray for getting his specimen thumb impressions, in the circumstances of the present case, should not be allowed to create an impediment in allowing the complainant to lead evidence that the alleged forged power of attorney does not bear his thumb impressions. It appears to the Court that comparison of the disputed thumb impressions with the standard impressions of the complainant would certainly facilitate the trial Court for just decision of the case in which serious allegations have been levelled against the petitioners and the Sub Registrar Sh.J.L. Bamoriya that the power of attorney is the result of forgery and fraud. In case the plea of the petitioners is accepted, it would amount to scuttling right of either party to fair trial and would result in miscarriage of justice. In view of the above, I do not find any error much less illegality in the impugned order as would call for intervention.

For the reasons aforesaid, the petition is dismissed with no order as to costs.

(REKHA MITTAL)
JUDGE

February 25, 2015.

DK