

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

**Criminal Revision No. 2541 of 2014 O&M)
Date of Decision: 18.08.2015**

Iqbal Singh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Ms. Upasana Dhawan, Advocate
for the petitioner(s).

Mr. Kapil Aggarwal, Addl.A.G., Haryana.

HARI PAL VERMA J.(Oral)

Petitioner has filed the present revision petition against the order dated 14.7.2014 passed by learned Additional Sessions Judge, Kurukshetra, whereby the application moved by the Public Prosecutor has been allowed and the Pharmacist of CHC Pehowa has been ordered to be summoned to prove the record/MLRs of Buta Singh, Mukhtiar Singh, Partap Singh and Jagdeep Singh.

Briefly stated, FIR No.113 dated 4.10.2012 under Sections 148, 323, 324, 326, 307 read with Sections 149 and 506 IPC and 27 Arms Act, Police Station Ismailabad, District Kurukshetra was registered at the instance of complainant Gurwant Singh on the

allegation that on 2.10.2012, there was election for the members of Youth Congress in the Village, in which his cousin Sukhdev Singh son of Iqbal Singh had won the election, whereas Gurmehar Singh son of Ajit Singh was defeated. On 3.10.2012, Satpal son of Pritam and Subhash son of Des Raj, caste *Harijan* had quarrelled in respect of this election and on receiving information, the complainant along with Sukhdev Singh son of Iqbal Singh and his uncle Iqbal Singh went to *Harijan Mohalla* for getting the matter patched up, but suddenly, at about 8.40 P.M., Gurmehar Singh, Buta Singh, Kewal Singh, Mukhtiar Singh and Kala, residents of Village Chhajupur, armed with *lathies* and Paramjit Singh and Harbhan Singh, carrying a rifle, Karam Singh and Partap Singh sons of Harbhajan Singh, Gursher Singh son of Paramjit Singh, armed with rifle, Rupinder Singh, Chanda Singh and Mukhtiar Singh, armed with *lathies* and *gandasi*, after hatching a criminal conspiracy, arrived at *Harijan Mohalla* Chhajupur and Simran Singh son of Buta Singh raised a *lalkara* to catch hold of everyone so that they could be taught a lesson for insulting them in election. Simran Singh gave a *lathi* blow on complainant's right arm and Gursher Singh also gave *lathi* blow on right shoulder of the complainant. Partap Singh son of Harbhan threw a stone on his left shoulder and Paramjit Singh, Gurbir Singh and three other persons fired shots in order to kill them.

In the aforesaid FIR, a cross-case under Sections 148, 323, 324, 326, 307 IPC was also got registered by the accused

persons against complainant Gurwant Singh and others.

Thereafter, challan was presented and the case was fixed for prosecution evidence. During the period of evidence, MLRs of Buta Singh, Mukhtiar Singh, Partap Singh and Jagdeep Singh were to be proved by examining the doctor Ravinder Singh, CHC Pehowa. But the said doctor failed to appear and ultimately, an application was moved by the prosecution for summoning the Pharmacist of CHC Pehowa on the ground that he is well-conversant with the hand writing and signature of Dr. Ravinder Singh. Learned Additional Sessions Judge, vide order dated 14.7.2014, allowed the said application and Pharmacist of CHC, Pehowa was summoned to prove the MLR.

It is the aforesaid order dated 14.7.2014 which is being challenged through the instant revision petition.

On 22.8.2014, while issuing notice of motion, this Court had passed the following order:-

*“Learned counsel for the petitioner has made reference to a judgment delivered by the Delhi High Court in **Sher Singh Vs. State**, 1995 (3) RCR (Criminal) 555, to contend that in the absence of the doctor, who conducted the medico-legal examination of the injured, the trial Court should have summoned another doctor working in the hospital, who is acquainted with the handwriting of the said doctor, instead of summoning a Pharmacist for proving the MLR.*

Notice of motion for 03.11.2014.

The trial Court is directed to adjourn the case beyond the date fixed by this Court.”

Learned counsel for the petitioner contends that the doctor who had prepared the medico-legal reports, is required to be summoned and the MLRs can only be proved by calling Dr. Ravinder Singh, the then Medical Officer at CHC Pehowa who prepared it. Since the report regarding leaving of service by Dr Ravinder Singh is not authenticated by any competent authority, the knowledge of the Process Server without any disclosed source regarding leaving of Dr. Ravinder Singh to America is of no consequence. It cannot be said that presence of Dr. Ravinder Singh cannot be procured. Moreover, the permanent address of Dr. Ravinder Singh must be in the records of the department and he should be summoned on the said address. In support of her contention, learned counsel has relied upon the judgment of Delhi High Court in the case of **Sher Singh v. State 1995(3) RCR (Criminal) 555** to state that the order dated 14.7.2015, allowing the application of the prosecution, for calling the pharmacist along with MLRs of Buta Singh, Mukhtiar Singh, Partap Singh and Jagdeep Singh is contrary to the law. Learned counsel for the petitioner refers to para 23 of the said judgment, which reads as under:-

“23. We have come across in this matter as well as in some other matters that the medico-legal case papers and post-mortem notes are got proved and brought on

record by examining person other than one who prepared them by saying that the person who prepared them is not available. Such a proof of document is no doubt legal and valid. But we want to express that trial courts Judges should make a thorough enquiry by asking the Investigating Officer to go personally to the concerned Hospital and make personal enquiry of tracing the address of the doctor who has left that service and whether in fact the said doctor is not really available. Only after such attempts the MLCs and post-mortem notes be brought on record by examining other person. But here also we want to observe that it is not all proper to examine a clerk or record keeper from the hospital to prove the handwriting and signature of the concerned doctor. In such a case another doctor working in the hospital and who is acquainted with the handwriting and signature of the doctor who prepared that document should be examined. In such a case the said doctor could be asked to clarify the position or the strength of the notes made by the concerned doctor. Such a doctor witness will be of great assistance to the cause of justice.”

On the other hand, learned State counsel has filed status report by way of affidavit of Chander Pal, HPS, DSP, Pehowa and has contended that during the course of investigation in FIR No.113 dated 4.10.2012 under Sections 148, 323, 324, 326, 307 read with Sections 149 and 506 IPC and 27 Arms Act, Police Station Ismailabad, District Kurukshetra, a cross-case under Sections 148,

323, 324, 326, 307 IPC was also got registered on the statement of Buta Singh son of Ajit Singh, resident of Village Chajjupur, Tehsil Ismailabad, District Kurukshetra against complainant Gurwant Singh and others. After the registration of both the cases, investigation was carried out in a just and fair manner and it was found that the allegations made in both the cases were true and therefore, reports under Section 173 CrPC were prepared against both the parties and the same were presented in the Court of Area Magistrate, Pehowa. Presently, both the cases are pending before learned Additional Sessions Judge, Kurukshetra and during trial, in the case of *State v. Gurwant Singh etc.*, in which the petitioner is also an accused, summons were issued to Dr. Ravinder Singh, Medical Officer, CHC, Pehowa, who had medico-legally examined the injured persons. However, the Process Server has reported that the said doctor has left the service and has gone abroad. Learned State counsel further submitted that since the MLRs were necessary to be proved for the just decision of the case, the prosecution had moved the application before the trial Court for summoning of pharmacist who was well acquainted with the hand writing and signature of Dr. Ravinder Singh. This pharmacist had worked with Dr. Ravinder Singh while posted at CHC, Pehowa. It is in the aforesaid circumstances, the trial Court has allowed the said application vide order dated 14.7.2014 and has summoned the Pharmacist to identify the signature and the hand writing of Dr. Ravinder Singh. The

pharmacist namely Rajiv Kumar has been examined as PW-19 on 27.8.2014 and he has duly identified the signature and the hand-writing of the doctor concerned. The examination-in-chief of Rajiv Kumar, PW-19 reads as under:-

“I have worked with Dr. Ravinder Singh, who was working in CHC, Pehowa. I have seen Ex.P62 (objected to), which is in the hand writing of Dr. Ravinder Singh and bears his signatures.”

Learned State counsel has relied upon a judgment of Allahabad High Court in the case of **Rameshwar Prasad Srivastava v. State of UP 1984 CrLJ 996**, wherein it has been held that in absence of the doctor concerned, the pharmacist, who is otherwise well-acquainted with the doctor's hand writing, is competent to prove the injuries. Para 18 of the said judgment reads as under:-

“18. Sri Manoj Prasad, learned advocate for revisionist, argued that the injury report has not been legally proved in this case as Dr. O.P. Dubey, who examined the injured, was not examined and Sri Ramji Singh, Pharmacist (P.W.5) was not competent to prove injury reports Exts. Ka-2 and Ka-3. This contention is devoid of force for the simple reason that not a single question was put in cross-examination to P.W.5 to assail his assertion that Dr. O.P. Dubey was not available for deposition and he was well acquainted with the writing of the doctor. So it was duly proved in accordance with the provision of Section 47 of Indian Evidence Act. This

report bears the thumb impression of Ramesh who testified about his medical examination. Under such circumstances, it is too late in the day to argue that the said report is not readable in evidence.”

Learned State counsel has also referred to Section 47 of the Indian Evidence Act, 1872 to state that when the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of the person who is well acquainted with his hand writing, is a relevant fact. Section 47 of the Indian Evidence Act reads as under:-

“47. Opinion as to handwriting, when relevant.—
When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Explanation.—*A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.”*

I have considered the rival contentions of the parties.

The judgment of Allahabad High Court in the case of

Rameshwar Prasad Srivastava v. State of UP (*supra*) has certainly persuaded this Court to come to a conclusion that in the absence of Dr. Ravinder Singh, who has gone abroad, the pharmacist, who is well-versed with his hand-writing and signature, is fully competent to prove the MLRs of Buta Singh, Mukhtiar Singh, Partap Singh and Jagdeep Singh. Moreover, there is no ambiguity in the language of Section 47 of the Indian Evidence Act that the opinion of the person who is well acquainted with the hand writing of the person whose hand writing/report is to be proved, is a relevant fact.

In the case in hand, it is the categorical assertion of the prosecution that the pharmacist who has deposed to prove the MLRs of Buta Singh, Mukhtiar Singh, Partap Singh and Jagdeep Singh, is well acquainted with the hand writing of Dr. Ravinder Singh, as they both had worked together at one point of time.

Having considered the facts and circumstances of the case and the law, I find no illegality in the impugned order dated 14.7.2014 passed by learned Additional Sessions Judge, Kurukshetra.

Accordingly, there is no merit in the present revision petition and the same is dismissed.

August 18, 2015
AK

(**HARI PAL VERMA**)
JUDGE