

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

CR No.3506 of 2016

Date of decision :19.05.2016

Ved Parkash Lor

..... Petitioner

Versus

Mahender Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Sumit Sangwan, Advocate
for the petitioner.

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

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred by the petitioner-defendant against the order dated 02.05.2016 passed by the learned Additional Civil Judge (Senior Division), Charkhi Dadri, whereby the application moved by the petitioner for getting examined the questioned documents from the Central Forensic Science Laboratory, Chandigarh/Hydrabad/Shimla, has been dismissed.

2. Learned counsel for the petitioner contended that there are two contradictory reports of the hand writing experts

produced before the learned trial Court. He contended that there is a material controversy in the suit that as to whether the father of the petitioner had executed the pronote and receipt in question and borrowed a sum of Rs. 21 lacs from the plaintiff-respondent. He contended that in order to do the complete justice, the learned trial Court should have sent the questioned documents i.e. pronote and receipt to the Central Forensic Science Laboratory, Chandigarh/Hydrabad/Shimla for examination.

3. He further contended that the petitioner is a retired senior Army officer and is a dead-honest person. The fraud has been committed by the plaintiff-respondent at his back. The opposition by the respondent to the application itself indicates that he has fabricated the documents with intention to grab the money of the petitioner. At the time of the alleged execution of the pronote, the age of the father of the petitioner was about 82 years. The witnesses examined by the respondent are interested witnesses. He contended that it is not believable that now a days a person will make the cash payment of such a huge amount of Rs. 21 lacs and that too to an unknown old person who was not ordinarily residing at Charkhi Dadri. The plea raised by the respondent that father of the petitioner has purchased some land also stands falsified. Thus, he contended that the suit filed by the defendant is based on forged and fabricated pronote and

receipt. These documents should be referred to the Central Forensic Science Laboratory in the interest of justice and to bring the truth on record.

4. I have duly considered the aforesaid contentions.

5. Plaintiff-respondent has filed the suit for recovery of Rs. 22,26,000/- (Rs. 21 lacs principal amount + Rs. 1,26,000/- as interest) on the basis of pronote and receipt dated 05.09.2012 allegedly executed by Roop Ram Lore, the father of the petitioner-defendant. It is an admitted fact that the respondent-plaintiff has examined the hand writing and finger print expert namely Shamsheer Singh Malik, who has given the report in favour of the plaintiff-respondent and tallied the standard signatures of Roop Ram Lore with the signatures on pronote and receipt. The present petition has also examined in his evidence Sh. Vijay Kumar Rastogi, hand writing and finger print expert, who has given the report that signatures on pronote and receipt dated 05.09.2012 are not of the father of the petitioner and is the product of free hand forgery. So, there are two reports of hand-writing experts available before the learned trial Court. It is the function of the Court to appreciate both the reports in the light of the other evidence available on record, the reasons given in the report by the hand writing expert in order to arrive at conclusion and the reliability of the report and then to determine as to which report is to be relied upon and which one is to be discarded or both the reports are

liable to ignored/discarded.

6. It is not understandable that when the petitioner has already examined his handwriting expert, then why he has moved this application for getting the disputed documents examined from the third expert of the Central Forensic Science Laboratory. The apprehension of the petitioner that generally it is stated that the private handwriting expert engaged by the party give the report in its favour is just an imagination of the petitioner. The report of the handwriting expert is only a corroborative piece of evidence, which can be relied upon in aid of substantive evidence or discarded keeping in view the circumstances of the case, the reliability of the scientific and established reasoning given in the report to form the opinion and its credibility and veracity. But, at the same time, the Court cannot base its conclusion only on the report of the handwriting expert. Rather, the Court is supposed to record the findings on appreciating the entire evidence available on record along with the report of handwriting expert.

7. Thus, as the petitioner-defendant has already examined his handwriting expert, the Court has not so far expressed any opinion that there is any necessity of the third expert's opinion in view of the conflicting reports, it will not be justified to refer the disputed pronote and receipt for examination by the Central Forensic Science Laboratory. If

that procedure is adopted, that will be a bad precedent and there will be no end as one or the other party may make such requests in order to prolong the proceedings of the case or to avoid the unfavourable evidence.

8. Some glance on the conduct of the petitioner is also relevant. The plaintiff has closed his evidence on 24.09.2014 after availing three effective opportunities. Thereafter, the case was posted for evidence of the petitioner for 11.11.2014. He availed six effective opportunities so far, but has not still concluded his evidence. He also moved an application for amendment of the written statement and then the present application. Despite availing six opportunities for leading his evidence, he has examined only one witness i.e. DW-1 Vijay Kumar Rastogi, the handwriting and finger print expert. So, the intention of the petitioner seems to prolong the proceedings of the case.

9. The plea raised by learned counsel for the petitioner that the fraud has been played by the plaintiff-respondent with the father of the petitioner in order to grab his money and that the disputed pronote and receipt are the forged documents, are the disputed questions of facts, which are to be decided by the learned trial Court at the appropriate stage on appreciation of evidence.

10. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the well reasoned impugned order

passed by the learned trial Court, which does not call for any interference by this Court.

11. Thus, the present revision petition having no merits, is hereby dismissed.

19.05.2016

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**(DARSHAN SINGH)
JUDGE**