

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 3673 of 2014(O&M)

Date of decision: January 8, 2016

Amar Pal Singh

.....Petitioner

VS.

Amar Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Ms. Rupinder Kaur Thind, Advocate
for the petitioner.

Mr. Ajay Kamboj, Advocate
for respondent No. 1.

1. Whether Reporters of local papers 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?

K.KANNAN,J(Oral)

1. Pending the trial of a civil suit, the defendant sought to contend the person posing as plaintiff was the brother of the plaintiff and impersonation was being practised. On such a contention being raised, it appears that the plaintiff gave his affidavit and also tendered proof of his identity, upon which the court received them and posted the case for further trial. In the meantime, yet another application had been filed for prosecution of the plaintiff for impersonation. It is learnt that a police complaint has been given and there are also proceedings to quash the complaint pending before this court. The court has issued summons to

the plaintiff to answer the complaint of impersonation. It will be premature to issue summons without finding that there was a case of perjury. The jurisdiction of civil court to take action before a criminal court will be when it has found on evidence that there was a case of perjury and an order could be passed under Section 340 of Cr.P.C for action in accordance with law. Without finding a case of impersonation at the trial, there is no scope of power for the court to call upon the defendant to prove on his identity which exercise has been done already. The impugned order is set aside as one being without jurisdiction and the revision petition is allowed.

2. These observation shall not be taken as an adjudication that the petitioner's identity as the plaintiff has been established. The result of the criminal complaint and the outcome of the proceedings for quashing the complaint will determine the course of action. The court will also be competent to pass appropriate order under Section 340 of the Cr.P.C provided if there is evidence available for such an initiation of proceedings.

JANUARY 08, 2016

Rajeev

**(K.KANNAN)
JUDGE**