

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

CRR No.4409 of 2016 (O&M)
Date of Decision: November 29, 2016

Loona Ram

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.S.Kalra, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned order dated 02.06.2016 passed by learned Judicial Magistrate Ist Class, Abohar, vide which the application filed by the prosecution under Section 65 of the Indian Evidence Act was allowed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application was filed by the prosecution under Section 65 of the Indian Evidence Act for seeking permission to prove the agreement dated 28.03.2005 in favour of accused Loona Ram, which was dismissed by the Court earlier vide order dated 18.02.2013 directing the prosecution to summon Gurbhej Singh, one of the

witness of the said agreement. In view of the order dated 18.02.2013,

prosecution examined Gurbhej Singh as PW-2, who appeared and deposed about the due execution of the agreement Mark P1/A and also identified his signatures upon the same. In examination-in-chief, he has categorically stated that the original agreement is in possession of Loona Ram accused, therefore, again the application for secondary evidence has been filed, which learned JMIC, Abohar allowed to prove the agreement dated 28.03.2005 by way of secondary evidence.

The perusal of the impugned order shows that firstly existence of the document prima facie has been proved by PW-2, who is attesting witness of the agreement and secondly, he has deposed on oath that agreement was in the possession of accused Loona Ram, and Loona Ram has not produced the agreement nor admitted that it is in his possession. Therefore, the ingredients under Section 65 of the Indian Evidence Act have been duly proved by the prosecution. By allowing the application under Section 65 of the Indian Evidence Act, no illegality has been committed by learned JMIC, Abohar. The order dated 02.06.2016 passed by learned JMIC, Abohar, is correct, as per law and the same is upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

November 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No