

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4659 of 2017
Date of decision:-24.07.2017

Smt.Ishro Devi

...Appellant

Versus

Anita Aggarwal

...Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vineet Chaudhary, Advocate, for the petitioner.

RITU BAHRI, J. (Oral)

The present revision has been filed against the order dated 17.05.2017 (Annexure P-8), whereby an application filed for additional evidence (Annexure P-3) filed by the petitioner/defendant has been dismissed.

The brief facts of the case are that the present appeal is an illiterate and rustic widow lady. The respondent-plaintiff Anita Aggarwal had filed a police complaint before the Superintendent of Police, Ambala, where she had got recorded her statement. Subsequently, she also filed a criminal complaint No.474 dated 14.03.2012 regarding which respondent-plaintiff deliberately throughout kept mum and suppressed the same in the present case. The plaintiff-Anita Aggarwal filed a suit for recovery of Rs.18,34,000/- (Annexure P-1). She had also made a complaint to the SSP Ambala and got her statement recorded. During the pendency of the suit appellant/defendant Ishro Devi came to know the criminal complaint No.474 which was got adjourned sine die on 02.12.2015. She wanted to place on record certified copy of complaint No.474 titled Anita Aggarwal Vs. Ishro

Devi along with certified copy of statement made by the plaintiff before the police dated 14.03.2011 and certified copy of order of the Court dated 02.12.2015 by way of application for additional evidence. This application has been dismissed by the trial Court by observing that the complainant in her suit had made specific averments about the pendency of any criminal complaint and about the filing of complaint before the police in para No.6 of the plaint. Subsequently, the respondent-plaintiff examined herself before the Court as PW4 and tendered her affidavits Ex.PW4/A. Again in her affidavit Ex.PW4/A at para No.6 she had reiterated the aforesaid version and had given clear details about filing and pendency of the criminal complaint before the Court alongwith its next date and has also mentioned about filing of a criminal complaint before SSP, Ambala. The respondent cross-examined the witness on this aspect also and had specifically put questions with regard to pendency of the criminal complaint before the Court. The complaints relates back to the year 2011 and the additional evidence relates back to the year 2011, 2012 and 2015 and taking advantage of the trial when it was fixed for final arguments, the present application has been made. Since the evidence in the knowledge of the defendant as she had examined this fact was mentioned in the plaint itself, in view of the judgment of Supreme Court in the case of K.K.Velusamy vs. N.Palaniswami, 2011(11) SCC 275, the application for leading additional evidence has been dismissed.

Learned counsel for the petitioner has argued that petitioner/defendant has not been summoned in the criminal complaint and she did not have any occasion to get certified copy. This argument is liable

reference of the this criminal complaint and this fact was however reported in her affidavit Ex.PW4/A and the defendant has examined this issue in the plaint as well.

Hence, it was admitted that by way of application of additional evidence, the appellant/defendant was willing to re-open the whole case for denovo trial in fact. But once the evidence sought to be produced was already to the knowledge of the applicant/defendant and moreover the complaint had been adjourned sine die vide order 02.12.2015 which was also in the knowledge of applicant/defendant, the trial Court had rightly dismissed the application seeking additional evidence in view of the guidelines issued by Hon'ble Supreme Court in the case of **K.K.Velusamy vs. N.Palaniswami, 2011(11) SCC 275.**

So in the light of the discussion, the orders of the trial Court does not reflect any material irregularity or perversity which warranting interference. Hence the present revision petition stands dismissed.

July 24, 2017
anil

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No