

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

CR No.6268 of 2017
Date of decision: 13.12.2017

Gursewak Singh

..... Petitioner

Versus

Sandeep Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.B. Raheja, Advocate
for the petitioner.

Mr. Piyush Sharma, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in revision petition against the orders dated 17.09.2014 and 17.05.2017. The plaintiff filed a suit for recovery of damages as compensation for ruining the life and social status of the plaintiff by committing rape upon her by the defendant. Defendant was convicted in the criminal trial. Defendant-petitioner started appearing in person although he was in custody from 21.04.2014. Daily orders passed by the Court are extracted as under:-

“21.04.2014

Present: Sh. J.S. Kalra, Advocate for the plaintiff.

File taken up today as 19.04.2014 was declared holiday and 20.04.2014 being Sunday. Defendant Gursewak Singh produced by jail authorities. On request, case stands adjourned to 05.08.2014 for filing written statement. They are at liberty to file the same within statutory period. Defendant Gursewak Singh be produced on the date fixed.

05.08.2014

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh in person.*

Written statement not filed. On request, case stands adjourned to 17.09.2014 for filing the same. They are at liberty to file the same within statutory period.

17.09.2014

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh in person.*

Written statement on behalf of defendant not filed. Perusal of the file reveals that defendant appeared in the present case on 21.04.2014 and already availed sufficient opportunities for filing written statement but he has failed to file the same. Hence defence of defendant is ordered to be struck off. To come up on 22.11.2014 for evidence of plaintiff.

25.11.2014

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh in person.
(Defence of defendant struck off vide order dt.17.9.14).*

File taken up today as 22.11.2014 was declared being Fourth Saturday (23.11.2014 was Sunday and 24.11.2014 was declared holiday). No plaintiff evidence is present. On request, the case is adjourned to 23.01.2015 for entire evidence of plaintiff.

23.01.2015

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh in person.
(Defence of defendant struck off vide order dt.17.9.14).*

No plaintiff evidence is present. On request, the case is adjourned to 26.03.2015 for entire evidence of plaintiff.

26.03.2015

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh in person.
(Defence of defendant struck off vide order dt.17.9.14).*

File taken up by me being trainee Judicial Officer, undergoing training at Ferozepur. No plaintiff evidence is present. On request, the case is adjourned to 27.04.2015 for entire evidence

of the plaintiff at own responsibility. File be returned back to the Court concerned.

27.04.2015

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh produced from custody
(Defence of defendant struck of vide order
dt.17.9.14).*

Defendant Gursewak Singh produced by jail authorities. PW1 and PW2 are present and examined in chief by way of affidavit. Cross-examination is deferred at the request of defendant. To come up on 17.07.2015 for cross-examination. PW1, PW2 and entire plaintiff evidence be produced on date fixed.

19.09.2015

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh not produced.
(Defence of defendant struck of vide order
dt.17.9.14).*

PW HC Tarsem Singh is present and bound down for 30.09.2015 as defendant not produced. Summons issued to PW Dr. Sushma received back served. But she has not come present. Hence, she be summoned throughailable warrants in the sum of Rs.5,000/- with one surety in the like amount for the date fixed. Remaining witnesses of the plaintiff be also produced on the date fixed.

Production warrants of defendant be also issued for the date fixed.

28.01.2016

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh produced from custody
Defendant Gursewak Singh produced by jail authorities. No evidence of the plaintiff is present. On request, case stands adjourned to 19.03.2016 for evidence of the plaintiff. Defendant be again produced on the date fixed.*

19.03.2016

*Present: Sh. J.S. Kalra, Advocate for the plaintiff.
Defendant Gursewak Singh produced from custody
Defendant Gursewak Singh produced from custody. No PW is present. Matter is adjourned for 23.05.2016 for entire evidence*

of the plaintiff. Defendant be also produced on the date fixed.”

A reading of the order dated 17.09.2014 shows that defence of the defendant-petitioner was struck off on non-filing of the written statement. Thereafter, the petitioner continued appearing in person on various dates of hearing as noticed above. The petitioner filed an application for recalling the order on 01.05.2017 i.e. after a period of two years and seven months.

Petitioner has filed an application for recalling the order striking off the defence on the ground that he was released from custody on 22.04.2017.

In the considered opinion of this Court, once the defendant was being produced by the jail authorities on almost every date of hearing, the petitioner cannot claim that he was not a knowledge of the fact that his defence has been struck off or he was not having a knowledge of the proceedings. Petitioner as noticed earlier had already been convicted in the criminal case.

In view of above, there is no scope for interference in the order passed by the Court.

Revision petition is dismissed.

13.12.2017

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No