

CR No. 8420 of 2016
DECIDED ON: JANUARY 13, 2017

VERSUS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Mr. APS Sandhu, Advocate
for respondent No.1.

JASPAL SINGH, J (ORAL)

By virtue of instant revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of impugned order dated October 15, 2016 (Annexure P-8) passed by learned Civil Judge Junior Division, Amritsar, whereby, an application filed by plaintiff/respondent No.1-Vishal Kumar Narang for cross-examination has been dismissed.

The contention of learned counsel for the petitioner is that the impugned order dated October 15, 2016 is absolutely against the settled canons of law and has resulted into causing prejudice to the petitioner. In fact, there is just and sound cause for recalling the plaintiff/respondent No.1 as well as Vijay Kumar for further cross-examination, to bring the truth as well as to clinch the matter in controversy judiciously and effectively. Plaintiff/respondent No.1 was cross-examined in the civil suit on April 11, 2016 and when subjected to cross-

examination, he has stated that the alleged agreement to sell dated July 05, 2011 was drafted by Jang Bahadur @ Jabbar at his shop and further that ₹10,00,000/- was received by the petitioner from him in the presence of witnesses of the agreement to sell. But while appearing in the witness box in a complaint case filed by him on August 06, 2016 against defendant No.1, he admitted on oath that ₹10,00,000/- was paid in the house of the accused and the payment was made simultaneously at the time of signing the agreement there. He further stated that at the time of receipt of the above-said amount wife of defendant No.1 and both of his sons were present. Since these facts were emerged after the examination/cross-examination of Vishal Kumar Narang as well as Vijay Kumar, in a civil suit, they are required to be confronted with those facts, which can only be done by recalling them for further cross-examination. Thus, impugned order is not sustainable in the eyes of law and is liable to be set aside. Consequently, application deserves to be accepted.

On the other hand learned counsel for respondent No.1 has controverted the afore-said submissions made by learned counsel for the petitioner submitting that there is no infirmity or illegality in the impugned order. Petition cannot be allowed to recall the witnesses again just on the ground that something has emerged in the criminal case. Otherwise also, both the civil as well as criminal proceedings are independent one and are to be decided independently without being influenced by any observation in either of the cases. Accordingly, ld. counsel for respondent No.1 prays for the dismissal of instant revision petition.

This Court has given an anxious thought to the rival submissions

made by learned counsel for the parties but does not find any legal and factual substance in the submissions made by learned counsel for the petitioner.

Undoubtedly, Vishal Kumar Narang as well as Vijay Kumar have been subjected to thorough and lengthy cross-examination by the counsel of the defendants before learned trial Court and their recalling for further cross-examination has only been sought that something contrary has emerged in the cross-examination of Vishal Kumar Narang in a complaint case filed by him against defendant No.1/petitioner, at a subsequent stage. But merely on this ground, such an application for recalling the witnesses cannot be allowed. If such an applications are allowed there would be an unending process.

Moreover, the criminal as well as civil proceedings are independent to each other and are to be decided separately on the basis of evidence adduced in support thereof. Instant application is nothing but a noble devise adopted by the petitioner to delay the disposal of the suit. Otherwise also, civil suit is at its penultimate stage and is fixed for arguments. Both the parties have already adduced and concluded their evidence in support of their respective pleadings. Moreover, it is not the case of the petitioner that any ambiguity has arisen, which is to be required by way of recalling the witnesses for cross-examination. So, taking the case of petitioner from either of angles, there is no reason to interfere with the findings recorded by learned trial Court.

Accordingly, instant revision petition stands dismissed.

JANUARY 13, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No