

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

CRL. MISC. No.M-33302 OF 2015
DATE OF DECISION : 22nd MARCH, 2017

Prem Raj

.... Petitioner

Versus

Ram Kishan Sharma

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Ram Bilas Gupta, Advocate for the petitioner.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith.

Since despite service of the notice to the contesting respondent and stay order made by this Court, there is no appearance right from 29.10.2015 and the petition is just pending before this Court, it is not necessary, looking to the respondent's conduct, who has chosen not to appear, to issue any further notice on this petition.

It appears from the perusal of the impugned order that after completion of trial at the behest of the petitioner-complainant, the accused alleged that petitioner had entered into compromise with him and he then place compromise deed on record and also his private handwriting expert to show that the petitioner had compromise deed under his signatures. Obviously, the petitioner-complainant was entitled to have an opportunity to lead rebuttal evidence as it was the accused who at the culmination of the trial, get his handwriting expert examined. The trial Court however, rejected the application filed by the petitioner-complainant who stated that he wanted to examine his

handwriting expert in order to rebut the claim made by the accused. I do not think that the petitioner-complainant made any mistake in applying to the Court for asking the opportunity and in the light of the principles of natural justice the petitioner-complainant was definitely entitled to the opportunity to rebut what came against him at the culmination of trial by way of new evidence.

In that view of the matter, I think the impugned order is completely wrong and the petitioner cannot be allowed to go undefended in the manner that has been done.

In the result I make the following order:

ORDER

- (i) CRL. MISC. No.M-33302 OF 2015 is allowed.
- (ii) Impugned order dated 09.09.2015 (Annexure P-4) is quashed and set aside.
- (iii) The application filed by the petitioner for examination of handwriting expert as his witness on the compromise deed document is allowed.
- (iv) The trial Court shall now allow the petitioner to follow the procedure for getting the report from the handwriting expert. The contesting respondent shall pay the costs in the sum of ₹2,000/- to the petitioner.

22nd MARCH, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No