

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

**CRM No.M-8134 of 2015 (O&M)
Date of Decision: November 14, 2017**

Jeet Singh Chhabra

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjay Jain, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Gaurav Sethi, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents for quashing the impugned order dated 19.01.2015 passed by learned Judicial Magistrate Ist Class, Ambala., vide which the application filed by the complainant for leading secondary evidence was allowed.

Notice to respondents No.1 and 2 was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that complainant filed an application for permitting him to lead secondary evidence. It is stated in the application that as the originals of complaints made to S.H.O., Barara regarding illegal encroachment made by the members of the Sikh Community, DDR No.20 dated 15.06.2004, DDR No.21 dated 15.06.2004 and compromise between Muslim Community and Sikh Community dated 01.03.2006 and 07.03.2006 were in police custody, so the complainant applied for its certified copies under the Right to Information Act. However, office of DCP, Ambala informed vide reply dated 21.04.2014 that aforesaid documents had been disposed of/destroyed as per law.

The complainant stated that these documents are important for the proper adjudication of the matter in dispute and wanted to prove the photocopies of the compromise deeds dated 01.03.2006 and 07.03.2006 through Jamshed Khan and Naseem Khan, who were its members at the time of compromise and had also signed the same and also wants to prove the complaint dated 30.11.2006 made by Jamshed Khan, who scribed the said document and copies of DDR No.20 dated 15.06.2004 and DDR No.21 dated 15.06.2004 from Virender Kumar, P.S. Barara.

The accused denied the compromise and stated that photocopies cannot be proved without originals. The applicant should have taken attested copies of the alleged DDRs before the same were destroyed by the police department.

After hearing the parties and going through the case file, learned JMIC, Ambala, allowed the application vide impugned order dated 19.01.2015. Aggrieved from the above-said order, present petition has been

From the record, I find that the loss/destroying of documents has been shown by the complainant as these documents have been destroyed as per reply of DCP, Ambala. The photocopies itself show the existence of these documents and further as stated in the impugned order, CW-4 M.K.Ahuja has categorically deposed that compromises were entered between the Sikh Community and Muslim Community.

Furthermore, the value of this evidence is to be appreciated by the trial Court at the time of final decision that what value is to be attached to this evidence, whether it is to be relied upon or not. At this stage, the complainant is asking for proving the photocopies of the compromises and DDR reports etc. through witnesses. It is not argued before this Court that this evidence is not relevant. To give the opportunities to the parties to prove their cases and to do substantial justice between the parties, the permission to prove the documents by secondary evidence is necessary.

In view of the above discussion, I find that no illegality has been committed by learned trial Court while allowing the application. The perusal of the impugned order dated 19.01.2015 passed by learned JMIC, Ambala, shows that it is correct, as per law and does not require any interference from this Court.

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

November 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No