

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 5023-2017 (O&M)
Date of decision: 27.03.2018

Suba Singh

.....Petitioner

versus

Megh Raj Gupta

.....Respondent

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Deepak Kaushal, Advocate for the petitioner
Mr. Amit Goyal, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 5.7.2017 (Annexure P1), vide which, application filed by the defendant (petitioner herein) for sending the pronote dated 3.5.2012 and receipt 3.5.2012, executed by the defendant to FSL Madhuban/ Central Forensic Science Laboratory, Central Bureau of Investigation, Block No.4, CGO Complex, Lodhi Road, New Delhi – 110003 to ascertain the age of the pronote and receipt in question and also the age of the ink of the thumb impression of the defendant on the pronote and receipt in question and also the age of the ink and writing on the pronote and receipt in question, learned Civil Judge (Junior Division), Dabwali, while relying upon the various pronouncements, declined the application.

I have heard learned counsel for both the parties and have also carefully gone through the file.

It comes out that the suit is on the basis of the pronote and receipt. Present petitioner is defendant in that case. Case is at the stage of his evidence, when such application is moved.

Learned counsel for plaintiff-respondent has relied upon the judgment of Constitution Bench of Apex Court in Union of India vs. Jyoti Prakash Mitter, 1971(1) SCC 396, judgment of this Court in Sudarshan Kumar vs. Manish Manchanda, 2015(3) RCR (Civil) 886, two judgments of Madras High Court in Garima Maheswari and others vs. S. Mukanchand Bothra, 2016(2) MadWN(Cri) 113, Mr. A.Chidambaram vs. Dr.S. Rajagopal, 2016(2) DCR 762 and two judgments of this Court in Tarsem Singh vs. Ravinder Singh, 2013(4) Law Herald 3608 and Yash Pal vs. Kartar Singh, 2003(3) RCR (Civil) 701 and pressed that the age of the ink cannot be determined.

On the other hand, learned counsel for the petitioner-defendant has relied upon the latest judgment of a Single Bench of this Court in Krishan Kumar vs. Parkash Chand (CR 6035-2015) decided on 18.5.2016, wherein judgments of Sudarshan Kumar (supra), Jyoti Prakash Mitter (supra), Elumalai vs. Subbarammani, 2012(1) RCR (Civil) 59 and T.Nagappa vs. Y.R. Mudaliar, 2008(3) RCR (Criminal) 926 were considered and the documents were ordered to be sent to FSL for ascertaining the authenticity with writing of the plaintiff to rebut the same.

I am of the view that from the year 1971 to 2018, there is lot of development in the science and technology. Therefore, on the basis of the judgments, it cannot be said that as at present, no technique is available to determine whether the two writings on the pronote or document were written at the same time or at different time. Though it may not be possible

to determine the exact age of the ink. If the report is received that two writings done are at different times, it is for the Court concerned to consider what is the effect of the same.

I am of the view that when ink is used and it goes down the fiber of the paper with the passage of the time, it might be possible to determine whether the two writings using the ink are of the same time or of different time.

In view of the matter, the revision is allowed. Impugned order dated 5.7.2017 (Annexure P1) is set aside. Trial Court is directed to send the pronote and receipt in question to FSL Madhuban at the expenses of the present petitioner with a direction to report “whether the thumb impression of the defendant and the writing of pronote and receipt in question is of the same time or different time.”

Since the main case has been allowed, therefore, the pending CM, if any, also stands disposed of.

27.03.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No