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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51469-2018 (O&M)
Date of decision : 22.11.2018

Vijay Kumar and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kushagra Mahajan, Advocate for the petitioners.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Impugned in the present petition is the order dated 22.10.2018 (Annexure P-4), passed by learned Additional Sessions Judge, Amritsar, vide which revision petition filed by respondent No. 2- Life Insurance Company of India against the order dated 11.4.2018 (Annexure P-3), passed by learned Judicial Magistrate Ist Class, Amritsar in case FIR No. 199 dated 14.12.2011, under Sections 420/466/467/468/471/120-B/419 of the Indian Penal Code registered at Police Station Kotwali, District Amritsar was allowed and prosecution was allowed to lead secondary evidence regarding fake police No. 471002486.

A perusal of the application filed by the prosecution shows that during the trial for offences under Section 420, 467, 120-B of the Indian Penal Code, the prosecution came to know that a fake LIC policy which has handed over to the Bank by Investigating Officer was not available on file. Intimation was also given to the Commissioner of Police, Amritsar and

departmental inquiry regarding the same is going on. The said application was dismissed by the Judicial Magistrate, Ist Class, Amritsar on 11.4.2018. However, against the said order revision petition filed by LIC was allowed vide order dated 22.10.2018 by learned Additional Sessions Judge, Amritsar.

I have gone through the said order. In this case, Bank has handed over the documents to the Investigating Officer including the fake policy. Therefore, apparently, Bank might have kept the copy of the same. It is claimed that during the investigation, documents were sent to laboratory and thereafter these were lost. In any case, the existence of the fake policy is established and the loss is also established. The accused have always the right to raise objections when the document is sought to be proved.

Learned counsel for the petitioner relies upon the authority of Bombay High Court in Shridhar vs. State of Maharashtra and another 2010 (26) RCR (Criminal) 429. The perusal of the said authority shows that fact of the said case are different. In the said case, application was moved by the complainant and that the prosecution had failed to prove its loss.

In this case, departmental inquiry by the Commissioner of Police, Amritsar is already going on showing that document has been lost.

Learned counsel for the petitioner further contends that secondary evidence cannot be allowed if the document is lost due to the own fault of the party. In case of the State case, file is handled by the several persons and Commissioner of Police is holding the inquiry. The said plea cannot be applied to the facts of the present case.

Therefore, while exercising the powers under Section 482 of the Code of Criminal Procedure, no ground is made out to quash the order dated 22.10.2018 (Annexure P-4), passed by learned Additional Sessions Judge, Amritsar while exercising the revisional powers.

Petition stands dismissed accordingly.

(KULDIP SINGH)
JUDGE

22.11.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No