

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

CRR-3799-2016

Date of decision:-26.2.2018

Ram Kumar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.K. Yadav, Advocate
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana

Mr.Arun Yadav, Advocate
for respondent No.2.

H.S. MADAAN, J.

This revision petition is directed against the order dated 20.8.2016 passed by Sub Divisional Judicial Magistrate, Kosli vide which petitioner – Ram Kumar, Panchayat Secretary facing trial as an accused in case *State Versus Sudershan and others* before Sub Divisional Judicial Magistrate, Kosli has been asked to bring relevant record and to get his statement recorded. Vide order dated 28.1.2016, an application under Section 311 Cr.P.C. filed by the prosecution to summon Panchayat

Secretary along with original record as a witness was allowed. Accused is feeling aggrieved by the order stating that he cannot be asked to appear as a witness against himself.

Notice of the revision petition was issued to respondents, who put in appearance through counsel.

I have learned counsel for the parties besides going through the record.

The argument put forward by learned counsel for the petitioner that an accused cannot be asked to appear as a witness against himself, has got merit. Though learned State counsel has contended that deposition of the petitioner - Ram Kumar, who was then Panchayat Secretary, Gram Panchayat is required to prove the relevant record. But, I find that what the prosecution intends to do and lower Court has allowed is not permissible under law. There are other ways of proving the record. Even if, the author of the documents is not available for any reason. Then the Evidence Act provides that the manner in which such documents/record can be got proved. The prosecution may examine any person conversant with the handwriting of the author or the signatory. For that matter some document expert can be examined. The possibility of calling upon the accused to admit the genuineness of the record can also be explored. The impugned order passed by the trial Court asking Ram Kumar to bring the relevant record and depose therefrom cannot be sustained. Accused can be called upon to admit or denied the genuineness of a document in terms of Section 294 Cr.P.C.

Therefore, the revision petition is accepted and the impugned order dated 20.8.2016 is hereby set aside.

Copy of the order be sent to the trial Court for information and necessary action.

26.2.2018

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**