

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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CRR-1262-2018

Date of decision: 05.04.2018

Jitender Singh

...PETITIONER

VS.

Ranjit Singh and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anil Ghanghas, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 21.03.2018 passed by the ACJM/Mohali, whereby the objection raised by the petitioner with regard to the request of the accused for examining Gurmeet Kaur, Handwriting Expert, has been rejected.

It is the contention of the learned counsel for the petitioner that there has been a chequered history as regards the litigation is concerned. However, he states that the present effort, which has been made by the respondents, is in a veil leading evidence on behalf of Ranjit Singh, who is declared as a proclaimed offender, the co-accused to them. He further states that the intention of the respondents is that they wanted to fill up the lacunae in the civil suit. He primarily asserts that earlier an application in rebuttal was filed by the respondents in a civil suit, which was preferred by them for leading rebuttal evidence, in which they had sought to produce the evidence of a handwriting expert, which was declined by the trial Court and even the

revision petition preferred in the High Court was dismissed. The present effort is in a veil covering up the gaps in the civil litigation. His contention is that the findings given by the Civil Court not permitting such an application would be binding upon the Criminal Court and the present application could not have been allowed. His further contention is that in any case, prior to permitting such an application for leading evidence of a handwriting expert, it should have been determined by the Court as to which signatures of the proclaimed offender Ranjit Singh are his standard signatures, which has been kept open by the trial Court to be determined at the final arguments stage, which again is not permissible. On this basis, he prays for setting aside the impugned order.

I have considered the submissions made by the counsel for the petitioner and have gone through the impugned order but find myself not in agreement with the submissions made by the counsel for the petitioner.

As regards the first contention of the counsel for the petitioner with regard to the binding effect of the order of the Civil Court on the Criminal Court, as a matter of basic principle, the assertion may appear to be correct but as has been observed by the trial Court in the impugned order, the rebuttal evidence was not permissible on the part of the plaintiff in the light of Order 18 Rule 3 CPC, which does not confer any right on the plaintiff to lead evidence in rebuttal on an issue, onus whereof was on the plaintiff itself, which was the case in the civil suit, which was preferred by the co-accused Ranjit Singh. The observation of the trial Court to that limited extent especially in the light of the provisions of the Code of Civil Procedure cannot be faulted with.

It may be observed here that in the present case, it is the

respondents, who are accused in the complaint, which has been preferred by the petitioner, who are exercising the right of defence, which cannot be curtailed in the light of the given facts and circumstances of the present case.

As regards the contention of the learned counsel for the petitioner that the Court should have determined the standard signatures of the proclaimed offender Ranjit Singh prior to permitting leading of evidence by a handwriting expert, suffice it to say that the Court has left the said question open and as observed, it would be decided at the time of final arguments. This Court does not find any flaw in the same and has no reason to think that the Court would not take up the issue and decide the same as that would be a crucial question to be decided for determination of the admissibility of an evidence relatable to a particular person or writer.

Finding no merit in the present petition, the same, therefore, stands dismissed.

April 05, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No