

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.16444 of 2023
Date of decision: 17th April, 2023

M/s Manchanda Agencies & another
... Petitioners

Versus

State of UT Chandigarh & another
... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Veeraj Sharma, Advocate for the petitioners.
Mr. P.S. Paul, APP UT Chandigarh
for the respondent No.1/State.

MANJARI NEHRU KAUL, J.

The petitioner is seeking setting aside of order dated 25.01.2023 (Annexure P-3) passed by the learned Judicial Magistrate 1st Class, Chandigarh vide which an application dated 31.10.2022 (Annexure P-2) filed on behalf of respondent No.2 (complainant in case No. NACT 6491-2020 titled as 'Mohan Lal vs. M/s Manchanda Agencies and another') for substituting his son to conduct further trial/prosecute accused was allowed.

Learned counsel appearing for the petitioner contends that while allowing the application (Annexure P-2) for substituting the son of the complainant, the trial Court had failed to appreciate the genuineness of the GPA (Annexure P-4) as it had not been signed by any witness. While drawing the attention of this Court to the

application (Annexure P-2), learned counsel further contends that the medical reports, on which reliance was placed by respondent No.2, pertained to the year 2018, whereas the application in question (Annexure P-2) was moved after four years, on 31.10.2022, hence in the absence of any latest medical record of respondent No.2, the trial Court had erred in allowing the substitution of the son of respondent No.2.

It has still further been submitted that the substitution application had been intentionally filed by the complainant at a belated stage, so as to avoid being exposed during his cross-examination and also because his son happened to be a practising lawyer, who thus would be in a better position to face cross-examination.

I have heard learned counsel and perused the relevant material on record.

The petitioner has no locus to challenge the genuineness of the GPA in question, as power of attorney essentially being a private arrangement of transfer of authority by the principal in favour of the agent, only parties to the said arrangement can challenge it. The petitioner, thus, being a stranger to the GPA cannot question its genuineness.

Admittedly, respondent No.2 is a senior citizen aged 77 years and as per the medical record, which was annexed along with the application (Annexure P-2), he is stone-deaf. The argument of the petitioner that the trial Court had erred by placing reliance on old

medical records, cannot be sustained as a person suffering from 100 % deafness would not have improved over a period of four years.

Notably, in ‘**Vinita S. Rao vs. M/s Essen Corporate Services (P) Ltd. & another**’ 2014 (4) RCR (Criminal) 253, it stands settled by the Hon’ble Apex Court that a complaint can be filed by the complainant through his Power of Attorney holder and still further the Power of Attorney holder can depose and verify the contents of the complaint which however would be subject to Power of Attorney being well versed with the transactions in question.

A perusal of the complaint dated 24.09.2020 (Annexure P-1) reveals that respondent No.2 has made specific averments therein that his son i.e. the Power of Attorney holder is well acquainted with the transactions in question as well as all other facts and circumstances of the case in hand.

As a sequel to the above, the impugned order dated 25.01.2023 (Annexure P-3) warrants no interference.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

April 17, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No