

2024:PHHC:020839

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

**CR No.6171 of 2023
Date of Decision: 14.02.2024**

Bhajan Singh

.....Revisionist-Petitioner.

Versus

Gurcharan Singh

.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Hitesh Verma, Advocate
for the revisionist-petitioner.

Mr. Tushar Sharma, Advocate
for the respondent.

MEENAKSHI I. MEHTA, J.

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-defendant (here-in-after to be referred as 'the defendant') has assailed the order (Annexure P-8) passed by learned Additional Civil Judge (Sr. Division), Barnala (for short 'the trial Court') on 29.09.2023, whereby application Annexure P-6, moved by him under Order 18 Rule 17 read with Section 151 CPC with a prayer to recall PW1, i.e the respondent-plaintiff (here-in-after to be referred as 'the plaintiff') for his further cross-examination, has been dismissed.

2. I have heard learned counsel for the petitioner-defendant in the present revision-petition, at the preliminary stage and have also perused the file carefully.

3. Learned counsel for the defendant has contended that in fact, the plaintiff had invested an amount of Rs.3.75 lac with Crown Company

but the said Company cheated numerous investors and refused to refund their money and then, the plaintiff got an application/complaint (Annexure P-2) drafted for moving the same to the Senior Superintendent of Police, Barnala for the registration of the criminal case in this regard and therefore, it was necessary to recall plaintiff-PW1 for his further cross-examination so as to confront him with the afore-said document but vide the impugned order, the trial Court has dismissed the above-mentioned application moved by the defendant for the afore-said purpose and therefore, this order is not legally sustainable and deserves to be set-aside. To buttress his contentions, he has placed reliance upon the verdicts rendered in **K.K. Velusamy Vs. N. Palanisamy, AIR 2011 SC(Civil) 1000; Balraj Sharma Vs. Jagir Kaur 1990(1) CurLJ 4 (P&H) & Surinder Kaur Vs. Sukhwinder Kaur 2016(3) CCC 345 (P&H).**

4. Per contra, learned counsel for the plaintiff has argued that the plaintiff had not ever got any application/complaint drafted for submitting the same to the Police and rather, the alleged application/complaint is a forged and fabricated document and the trial Court has rightly dismissed the above-referred application and the impugned order is perfectly legal.

5. The plaintiff has filed the afore-said Suit against the defendant for seeking the decree for recovery of the sum of Rs.4,38,750/- by claiming that the defendant had raised a loan of Rs.3.75 lac from him by executing the Pronote and Receipt in lieu thereof. It is worth-while to mention here that the defendant has not annexed the copy of the Written-Statement, as filed by him in the above-mentioned Suit, which could have elucidated the fact as to whether he had made any assertion therein regarding the said

Company having allegedly cheated the investors and the afore-referred application/complaint having been got drafted/prepared by the plaintiff or not. Then, as mentioned in para No.4 in the impugned order, the plaintiff appeared in the witness-box as PW1 on 29.07.2019 whereas the above-said application/complaint is shown to have been prepared on 20.10.2016, much before the recording of his (plaintiff's) testimony. To add to it, throughout in his application, the defendant has not come forward with any fair and candid version as to how, when, wherefrom and under what circumstances, he had come across the afore-mentioned application/complaint. It is also pertinent to point it out here that in Annexure P-7, i.e the Reply as filed by the plaintiff to the said application, he has specifically denied the factum of his having ever got any such application/complaint prepared/drafted and his having signed the same.

6. The observations, as made by Hon'ble Supreme Court in **K.K. Velusamy (supra)**, are of no avail to the defendant because in that case, the plaintiff was sought to be recalled for his further cross-examination with reference to the admissions made during some conversations, as recorded on 27.10.2008 and 31.10.2008 after the conclusion of the evidence by both the parties whereas in the present case, as discussed above, the application/complaint (Annexure P-2) bears the date 20.10.2016 and the plaintiff had been examined and cross-examined on 29.07.2019 and the defendant has not placed his Written-Statement on the file to ascertain as to whether he had taken any plea qua the above-said application/complaint therein or not. Then, in **Balraj Sharma (supra)** also, the landlady alleged that the tenant had sublet the demised premises for running a Music School in the same

and the tenant wanted to further cross-examine the witnesses examined by the landlady to confront them with the Forms submitted by them for getting their children admitted in the Music School run by the wife of respondent No.2 in some other building and the counsel for the tenant had stated at Bar that he had been engaged on the day when the case was fixed for recording the evidence and the afore-mentioned documents were not in his possession on that day and he came to know about the same subsequently but it is not so in the instant case. Further, in **Surinder Kaur (supra)**, the application as moved by the respondent for seeking amendment in the Written-Statement had been allowed and therefore, it was held that the respondent would be well within her right to recall the witnesses of the petitioner in order to cross-examine them in respect of the plea of fraud and mis-representation, as raised by way of the said amendment but the facts and circumstances in the present case, are not similar to those as narrated above.

7. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

February 14, 2024

Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes