

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

2025:PHHC:004389



115

CR-4301-2024 (O&M)

Date of decision: 14.01.2025

Panna Lal

...Petitioner.

Versus

Bishan Dayal

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Vikram Singh, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 02.07.2024 (Annexure P-9), passed by the trial Court, vide which application under Order 18 Rule 17 read with Section 151 CPC filed by the petitioner/ defendant, was dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that respondent filed a suit for recovery of Rs.3,42,000/- (Rs.2,00,000/- as principal and Rs.1,42,000/- as interest) alleging that the petitioner/ defendant had taken loan of Rs.2,00,000/- from the plaintiff on 17.03.2016 for domestic expenses vide pronote and receipt; the petitioner is lingering on the matter in returning the money and legal notice was issued which has been refused; he did not make the payment till date, hence the present suit was filed.

3. On issuance of notice, defendant appeared and filed written statement alleging that the petitioner/ defendant never took any loan from the plaintiff/ respondent on 17.03.2016 and did not execute any pronote and

receipt.

4. During pendency of the suit, petitioner filed application for recalling of plaintiff's witnesses for further cross-examination under Order XVIII Rule 17 read with Section 151 CPC on the ground that the plaintiff/respondent has examined PW1-V.B. Kashyap Handwriting and Fingerprint Expert, Jhajjar and PW2-Ram Singh Verma. The witness PW1-V.B. Kashyap Handwriting and Fingerprint Expert submitted the expert report Ex.PW1/B and photographs Ex.PW1/A. It was alleged that the report submitted by PW1 is apparently confusing and not conclusive one. He has concealed the material facts and report is self contradictory. It was alleged that report of PW1-V.B. Kashyap Handwriting and Fingerprint Expert and statements of witnesses are contradictory and not believable. Defendant/petitioner is uneducated person and he could not understand the language of the report, so at the time of examination of PW1 and PW2 the defendant/petitioner could not explain the material facts and contradictions in the report to his counsel. Said witnesses could not be cross-examined effectively by counsel for the defendant, due to which he has been prejudiced. It was alleged that in order to remove the inconsistencies and to make the report conclusive, both the above witnesses are necessary to be recalled for further cross-examination.

5. Reply to the said application was filed by plaintiff/ respondent alleging that it was not maintainable. Both the witnesses were cross-examined at length by the counsel for the defendant and it cannot be said that expert report is not conclusive. It was alleged that the present application has been filed only to prolong the proceedings of the present

case.

6. The aforesaid application was dismissed by learned trial Court vide order dated 03.11.2023. Aggrieved thereagainst, petitioner filed CR-7066-2023, which finally came up for hearing on 29.02.2024. The said revision petition was disposed of with liberty to the petitioner to move an appropriate application before the trial Court. Thereafter, the petitioner moved the application dated 15.03.2024. Reply to the said application was filed by the respondent. Learned trial Court after appreciating the facts as well as law and the necessity of recalling the witnesses, dismissed the application of the petitioner vide order dated 02.07.2024. Aggrieved against the said order, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

7. Learned counsel for the revision petitioner has contended that the impugned order is non reasoned and non speaking. He has argued that it is well settled law that the Court may recall and examine a witness not only suo motu but also on an application filed by the parties to the suit. Fingerprint Expert witness could not be cross-examined as the defendant is uneducated, so some vital facts which were necessary for complete and proper adjudication of the suit have been left. He submitted that on account of the omission of learned counsel for the petitioner/ defendant, he should not be made to suffer since cross-examination of PW1 and PW2 goes to the very roots of the issues to be decided in the suit and recalling of PW1 and PW2 would not in any way cause any prejudice to the other party and has prayed that the present revision petition be accepted.

8. I have heard learned counsel for the petitioner and have gone

through the relevant record.

9. From perusal on record, it is revealed that earlier one similar application dated 14.07.2023 under Order XVIII Rule 17 CPC for recalling the witnesses of the plaintiff for further cross-examination of PW1-V.B. Kashyap Handwriting and Fingerprint Expert, Jhajjar and PW2-Ram Singh Verma was moved in this case, which was dismissed vide order dated 03.11.2023. Vide order dated 29.02.2024 passed by this Court, the petition filed for setting aside the order dated 03.11.2023 was disposed of with liberty to the petitioner/ defendant to move an appropriate application in this regard before the trial Court. In pursuance of said order, the applicant/ defendant has filed the present second application dated 15.03.2024 under Order VXIII Rule 17 CPC for recalling the witnesses of the plaintiff PW1-V.B. Kashyap Handwriting and Fingerprint Expert, Jhajjar and PW2-Ram Singh Verma for their further cross-examination. As per the petitioner/ defendant, both the aforesaid witnesses could not be cross examined properly as defendant could not explain the material facts and contradictions in the report to his counsel. So in order to remove said inconsistencies and to make report conclusive, recalling of aforesaid witnesses for further cross-examination is essential.

10. Defendant was being represented by a counsel when aforesaid witnesses were cross-examined by the said counsel, so this contention raised by counsel for the petitioner does not cut ice that defendant could not understand the contents of the report of Handwriting and Fingerprint Expert. So when the petitioner was duly represented through his counsel then he could have cross-examined the aforesaid witnesses on each and

every aspect as deemed to be material.

11. Otherwise also, the application filed under Order XVIII Rule 17 CPC filed by the petitioner is quite vague. It has not been disclosed therein that on which ground PW2 is to be cross-examined. It has also not been disclosed that on which points, these witnesses are to be further cross-examined. Trial Court has rightly observed that engagement of a new counsel is not a ground for recalling the witness for cross-examination when said witnesses have already been duly examined by the counsel engaged by petitioner/ defendant, otherwise, there will be no end to the litigation.

12. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

13. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

14.01.2025

komal

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