

K K SRIVASTAVA Vs. PRABHAT SRIVASTAVA

15.10.2024

Present: Sh. Ashutosh Mishra, Sh. Sagar Mishra and Sh. Ramesh

Singh Ld. Counsels for plaintiff a/w plaintiff.

Defendant with Ld. Counsel Sh. Prabhat Ranjan.

Reply to the application u/o 7 Rule 14 r/w section 151 of CPC filed. Copy supplied.

Arguments heard.

It is submitted by Ld. Counsel for plaintiff that the documents sought to be produced are relevant documents to the present matter and plaintiff was not in custody of these documents at the time of filing present suit as these documents are pertaining to the charge sheet filed by police in a FIR case bearing no. 393/21 PS Shakarpur. It is further submitted that the certified copy of charge sheet has been procured by the plaintiff on 20.08.2024 and at the first instance he filed the present application to bring these documents on record.

It is argued by Ld. Counsel for defendant that the documents sought to be placed on record by way of present application was very well in possession of plaintiff at the time of filing present suit as he was the only person who handed over the documents to the investigating officer in the criminal case. These civil and criminal proceedings are parallel proceedings and all the documents which the plaintiff has placed on record in criminal proceedings, should have been placed in the present matter at the first instance with the plaint. Even otherwise that record of criminal court could have been summoned in evidence by the plaintiff. Per contra, it is submitted by Ld. Counsel for plaintiff that certified copy of chargesheet including the statements under section 161 CrPC and the replies filed by the defendant before the

investigating officer were not in the possession of plaintiff. It is further submitted that though the proceedings in criminal and civil courts are separately going on but the civil court has to consider the investigation done by Investigation Officer with respect to forgery of a documents upon which the case of any party is based.

In response to this, Ld. Counsel for defendant submits that the statement u/s 161 cannot be relied upon by the Courts before giving an opportunity to cross-examine the witness in any of the proceedings be it criminal or civil. Therefore, the statements u/s 161 Cr.PC is not relevant to the present matter.

This court is of the opinion that the present application for producing additional documents on record deserves to be allowed for the reasons mentioned below:-

- a. The documents sought to be produced are relevant to the present matter.
- b. The documents to be produced were not in the custody of plaintiff at the time of filing the present suit.
- c. The present matter is at its initial stage i.e. the plaintiff's evidence is yet to be recorded.

Having observed so, the present application u/o 7 Rule 14 r/w section 151 of CPC filed on behalf of plaintiff stands allowed. Consequently, the documents are taken on record.

Put up for P.E. on 21.11.2024 at 12:30 p.m.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
15.10.2024