

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

**Criminal Misc. No. M-18726 of 2015
Date of Decision: 24.08.2015**

Jaspal Kaur

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. N.K. Vashist, Advocate
for the petitioner(s).

HARI PAL VERMA J.(Oral)

Jaspal Kaur, petitioner, has filed the present petition under Section 482 Cr.P.C. for quashing of order dated 4.5.2015 passed by learned Additional Sessions Judge, Mohali, whereby the revision petition filed by the petitioner against the order dated 15.1.2015 passed by learned Sub Divisional Judicial Magistrate, Kharar, dismissing his application under Section 311 CrPC, has been dismissed.

Brief facts of the case are that an application under Section 311 CrPC was moved by learned APP to the effect that after registration of the FIR, the statement of the complainant-petitioner

was recorded in Court on 3.6.2010. The complainant made her statement as per the facts known to her at that time. But certain facts were yet not in the knowledge of the petitioner. After the registration of the FIR, husband of the petitioner expired and civil cases were filed by both the parties against each other. Suit for succession was filed by Harpal Kaur, wherein, during cross-examination, she admitted certain facts which are necessary to be brought on record. However, learned Sub Divisional Judicial Magistrate vide order dated 15.1.2015 has dismissed the application under Section 311 CrPC and held as under:-

“3. After hearing the arguments of Ld. APP for the State and Ld. defence counsel, this Court is also of the considered view that in the present case the statement of complainant has already been recorded and she was also cross-examined by defence counsel and many witnesses have been examined by the prosecution in the present case but in the application in hand the prosecution wants to summon the concerned Ahlmad of the Court of Sh. Ashish Saldi, to prove the cross-examination of Harpal Kaur in a Succession Case filed by Harpal Kaur but this court is satisfied that the additional evidence sought to be led by the prosecution is not at all relevant in the present case and has nothing to do with the present case because the present case has been registered under Section 406/498-A of IPC and there is no plea of any kind of forgery of any document in the present case, therefore, this court is satisfied that there is no necessity to adduce any additional evidence

in the present case and application has only been filed to delay the proceedings of the present case. So far as the citation relied upon by the Ld. APP for the State is concerned, it is pertinent to mention here that the said citation is not applicable in the present case and relates to the summoning of doctors, therefore, I find no force in the application in hand and application under Section 311 Cr.PC stands dismissed. Now to come up on 4.2.2014 for remaining entire evidence of the prosecution subject to last opportunity. PWs be summoned for the date fixed.”

The aforesaid order dated 15.1.2015 was challenged by the petitioner by way of revision petition before learned Additional Sessions Judge, SAS Nagar, Mohali. Learned Additional Sessions Judge dismissed the said revision petition vide order dated 4.5.2015 observing as under:-

“Perusal of copies of above said cross-examination dated 20.01.2014 of accused Harpal Kaur in the Succession Case No.1 dated 2.01.2013 titled as and of copy of plaint of Civil Suit titled 'Jaspal Kaur and another Versus Prem Singh and another' shows that the said litigation started between complainant Jaspal Kaur and accused Harpal Kaur after death of accused Ravinder Singh Bhullar and Prem Singh Bhullar, during the pendency of trial of this case. Learned defence counsel has failed to satisfy this Court as to how the said statement dated 20.01.2014, copy of plaint of Civil Suit No.77 Dated 3.04.2012 and Mutation No.1525 are relevant to the matter, which is in issue in the present

trial. Rather it appears that the complainant wants to bring on record these above said documents with some ulterior motive. Moreover, statement dated 20.01.2014 of accused Harpal Kaur recorded in the succession proceedings cannot be used as evidence against her in the present trial. Perusal of the trial Court record shows that the trial is going since 10.12.2008 and is almost complete and the present application under Section 311 of the Code of Criminal Procedure has been filed by the complainant just to further prolong the trial.

So, after carefully considering the respective contentions of learned counsel for the parties as well as learned Additional Public Prosecutor for the respondent State and the material avail on the trial Court record, I have reached at a considered opinion that there is not any illegality or infirmity in the impugned order dated 15.01.2015 warranting interference by this Court exercising revisional jurisdiction. Therefore, this revision petition is dismissed. Trial Court be returned back forthwith along with a copy of this order. Parties are directed to appear before the trial Court on 15.05.2015, the date already fixed. Record of the revision petition be consigned to the Record Room.”

Learned counsel for the petitioner contends that at the time of statement of the petitioner-complainant before the trial Court, certain facts were not in her knowledge, which came to her notice at later stage, necessitating the prosecution to file the present application under Section 311 CrPC. The petitioner wants to bring on record the civil as well as revenue record in order to prove the

greedy mindset of the accused persons and also to prove as to who is the actual beneficiary. The petitioner wants to prove that all the accused persons in connivance with their daughter and son-in-law had hatched a conspiracy.

I have heard learned counsel for the petitioner.

A perusal of cross-examination dated 20.1.2014 of Harpal Kaur in the Succession Case shows that the said litigation started between the petitioner and accused Harpal Kaur after the death of Ravinder Singh Bhullar and Prem Singh Bhullar, during the pendency of the trial. Learned revisionary Court has observed that the complainant wants to bring on record the documents i.e. statement dated 20.1.2014, copy of plaint of Civil Suit No.77 dated 3.4.2012 and Mutation No.1525 with some ulterior motive. Even the statement dated 20.1.2014 of the accused Harpal Kaur recorded in the succession proceedings cannot be used as evidence against her in the present trial. The trial is going on since 10.12.2008 and is almost complete whereas the present application under Section 311 CrPC has been filed by the complainant just to prolong the trial.

In view of the aforesaid, I find no reason to interfere with the impugned orders passed by the Courts below.

Accordingly, the present petition is dismissed.

August 24, 2015
AK

(HARI PAL VERMA)
JUDGE