

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

CRM No.M-22724 of 2015 (O&M)

Date of decision: 29.07.2015

Karanjit Singh

... Petitioner

Vs.

Manjeet Singh & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Amit Arora, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J.

CRM No.23349 of 2015:

Application is allowed as prayed for. Documents at Annexures P-5 and P-6 are taken on record.

Application is disposed of.

Main case:

The instant petition filed under Section 482 Cr.P.C. is directed against the order dated 04.06.2015 (Annexure P-4) passed by the learned Judicial Magistrate, Tarn Taran, whereby an application preferred by the petitioner under Section 311 Cr.P.C. for summoning of Ahlmad (criminal) of the Court of SDJM, Patti along with case file titled as State versus Karanjit Singh (FIR No.199/2013, under Section 420 IPC, Police Station Patti) has been dismissed.

2. Counsel for the petitioner has been heard at length.
3. Briefly, it may be noticed that respondent No.1 herein, namely,

Manjeet Singh had instituted a complaint under Section 138 read with

Section 142 of the Negotiable Instruments Act, 1881 against the petitioner on the allegation that the petitioner had approached the complainant for advancing a loan and as such, the complainant had given an amount of Rs.11,50,000/- as loan and in order of discharge such liability, the petitioner had issued cheque no.008834 dated 18.12.2013 drawn on ICICI Bank, Patti Branch and the same had been dishonoured upon presentation for want of sufficient funds.

4. The application preferred by the complainant/present petitioner under Section 311 Cr.P.C. was on the ground that the complainant had admitted receiving a blank cheque in his statement under section 161 Cr.P.C. in case FIR No.199/2013 under Section 420 IPC registered at Police Station Patti. Accordingly, prayer had been made to summon the criminal Ahlmad of the concerned Court along with the records of the case.

5. Section 311 Cr.P.C. reads as follows:

Section 311: *Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or. recall and re- examine any person already examined; and the Court shall summon and examine or recall and re- examine any such person if his evidence appears to it to be essential to the just decision of the case.*

6. Undoubtedly, the Court has been empowered to summon any person as a witness at any stage of inquiry, trial or other proceedings. Such power has to be exercised wherever it appears to the Court that it would be essential to do so for a just decision of the case. Be that as it may, application under Section 311 Cr.P.C. ought not to be allowed mechanically

and without application of mind.

7. In the impugned order, reasons have been assigned for rejection of the application. It has been observed that during cross examination of the complainant, the contents of the statement made under Section 161 Cr.P.C. pertaining to case FIR No.199/2013, under Section 420 IPC has already been admitted. The statement is stated to be already on record as Mark 'A'. Copy of the FIR is also stated to have been placed on record as Ex.C-10. The trial Court has accordingly opined that the facts sought to be relied upon and summoned in the application under Section 311 Cr.P.C. are already on record of the case.

8. In the considered view of this case, the impugned order dated 04.06.2015 at Annexure P-4 declining the application under Section 311 Cr.P.C. has been passed on valid and cogent reasons.

Petition is accordingly dismissed.

29.07.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

Note: Whether referred to the Reporter?

No