

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3018-2015
Date of Decision: October 7, 2015

Akshay Bansal

...Petitioner

Versus

Kamarpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Yogesh Goel, Advocate,
for the petitioner.

Mr. G.S. Jagpal, Advocate,
for the respondent.

- | | | |
|----|--|------------|
| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

NARESH KUMAR SANGHI, J. (Oral)

Challenge in the present petition, filed under Section 482, Cr.P.C., is to the order dated 20.10.2014, passed by learned Judicial Magistrate First Class, Ludhiana, whereby, the application filed by the respondent-complainant under Section 311, Cr.P.C., for summoning of Jatinder Kumar, son of Narinder Kumar, in the additional evidence, was allowed.

Learned counsel for the petitioner has raised the following contentions:

- (i) The respondent-complainant cannot be permitted to fill up the *lacunae* in the complainant's case;
- (ii) The respondent-complainant cannot be allowed to lead evidence against the version narrated in the complaint; and
- (iii) Learned Trial Court has failed to give cogent reasons for allowing the application.

On the other hand, learned counsel for the respondent-complainant submits that cogent reasons have been recorded by learned Trial Court while holding that additional evidence to be led by the respondent-complainant was for the just decision of the case and that at the stage of the complainant's evidence, the application for leading additional evidence was moved and, as such, it cannot be said that there was an intention on the part of the complainant to fill up the *lacunae* in his case.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

After passing of the impugned order (Annexure P-4), the petitioner approached the Court of Session by way of criminal revision petition, but the same was permitted to be withdrawn for filing the petition before this Court. The petitioner approached this Court by way of a petition under Section 482, Cr.P.C., and same was

also permitted to be withdrawn to approach the Court of Session for filing the revision petition at the first instance. While relying upon the judgments in the matters of **Sethuraman v. Rajamanickam**, 2010 (5) R.C.R. (Criminal) 512 (SC) and **Sanjay and another v. State of Haryana and another**, 2005 (1) R.C.R. (Criminal) 15 (P&H), the learned Revisional Court dismissed the revision petition filed by the petitioner by holding that allowing of the additional evidence would be an interlocutory order and revision against such order was not maintainable and, hence, the petitioner has once again approached this Court by way of present petition under Section 482, Cr.P.C.

While concluding the impugned order, learned Trial Court held as under:

“4. I have heard the Ld. Counsel for the parties and have gone through the record carefully. The complainant wants to examine Jatinder Kumar whose examination is required for the proper and just decision of the case. Hence in the interest of justice this application for examining the Jatinder Kumar filed by the Ld. Counsel for the complainant is allowed without commenting upon the merits of the case.”

It is undisputed that in the interest of justice and for the just decision of the case and before pronouncement of the judgment, the Court can allow to lead additional evidence. The

mandate of Section 311, Cr.P.C., further authorize the Court to recall the witness, who has already been examined. In the present case, the respondent-complainant was able to convince learned Trial Court during course of the complainant's evidence that the deposition of Jatinder Kumar @ Jatti, son of Narinder Kumar, would be essential for proper and just decision of the case and, as such, keeping in view the interest of justice, the learned Trial Court allowed the application presented by the respondent-complainant. This Court while exercising jurisdiction under Section 482, Cr.P.C., has also perused the material available on record and finds that there is nothing to set aside the well reasoned order passed by learned Trial Court. The independent scanning of the material would lead this Court to conclude that the deposition of Jatinder Kumar, son of Narinder Kumar, would facilitate learned Trial Court to arrive at a just decision of the case and, as such, there appears to be no substance to the present petition and the same is hereby dismissed.

October 7, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE