

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

CRM-M-3346 of 2015
Date of Decision: 18.05.2015

Savitapetitioner

Versus

Ram Singh and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Varun Gupta, Advocate for the petitioner.

Ms. Mahima, AAG, Haryana.

Mr. Bipin Ghai, Sr. Advocate with
Mr. Vishavjit K. Virk, Advocate for respondents No.1 and 2.

SNEH PRASHAR, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') for quashing of the order dated 04.09.2013 (Annexure P-3) passed by Learned Chief Judicial Magistrate, Narnaul in case First Information Report No.12 dated 11.01.2007 under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code (for short 'the Code') registered at Police Station City Narnaul and order dated 04.12.2014 (Annexure P-4) passed by Learned Additional Sessions Judge, Narnaul, whereby the application of the petitioner under Section 311 Cr.P.C. has been dismissed.

2. An application invoking the provisions of Section 311 Cr.P.C was filed by the prosecution for summoning Suresh Ravish being the BDPO Narnaul in 2006, when the complaint was filed. Learned counsel for the petitioner argued that PW-10 Naresh Kumar BDPO during his examination in the Court stated that the complaint which forms the basis of First

Information Report was made by Suresh Ravish, who was posted as BDPO at the relevant time. He being the concerned complainant is a material and necessary witness and for his examination the application under Section 311 of the Cr.P.C had been filed. To support his arguments, learned counsel for the petitioner relied upon Rajendera Prasad Vs. Narcotic Cell (1999) 6 SCC 110.

3. The prayer was opposed by learned counsel for respondents No.1 and 2. He pointed out that despite 9 effective opportunities availed by the prosecution, it failed to conclude its evidence and ultimately the evidence was closed by the Court vide order dated 26.11.2012. The said order was set aside in revision by learned Additional Sessions Judge, Narnaul and four witnesses of the prosecution named in the revision petition were allowed to be examined. Subsequent to that, the prosecution filed an application under Section 311 Cr.P.C for summoning Manager, Central Co-operative Bank, Ateli Mandi, which was dismissed by learned trial Court vide order dated 26.03.2013. In that application also it was not the prayer of the prosecution that Suresh Ravish the then BDPO, Narnaul was a witness and was required to be examined. The instant second application had been given only with a view to delay the proceedings and to fill up the lacunaes.

4. Having considered the arguments of learned counsel for the parties, there appears to be no merit in the instant petition. During the arguments it transpired that 'BDPO Narnaul' was named as the witness in the list of witnesses of the prosecution and he was examined as PW-10 and that he proved the complaint given by the petitioner etc. It may have come in the statement of PW-10 that Suresh Ravish was the then BDPO when the complaint was given but it is not the case of the petitioner in his application

filed under Section 311 Cr.P.C that Suresh Ravish, the then BDPO had to depose anything from his personal knowledge. Though it was mentioned that an inquiry was conducted by Suresh Ravish but not a word was spelt out to disclose the name of the person who had made the complaint, the name of the authority under whose direction the inquiry was conducted or the matter which was enquired into by him. That also makes it clear that Suresh Ravish was not the complainant. Moreso, neither in the first revision petition filed by the prosecution assailing the order dated 26.11.2012 of learned trial Court vide which its evidence was closed, Suresh Ravish was named as a witness to be examined nor in its second application given under Section 311 Cr.P.C he was sought to be summoned named as a witness.

As submitted by learned counsel for the respondent, the complaint which formed the basis of First Information Report already stands exhibited as Ex.7/A. In case in this manner, the prosecution is allowed to introduce new witnesses there will be no end to the trial. Otherwise also, the provision of Section 311 Cr.P.C cannot be resorted to in order to fill up the lacunae in the case by either of the parties.

5. The case pertains to the year 2007. Apparently, it was being prosecuted by the petitioner in a very casual and careless manner. She cannot by way of instant petition be allowed to fill in the lacunae in the case. Finding no ground for intervention in the order of the learned trial Court/learned Additional Sessions Judge, the petition is hereby dismissed.

May 18, 2015
rashmi

(SNEH PRASHAR)
JUDGE