

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-35809 of 2015****Date of Decision: October 16, 2015**

Manish

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.S.N.Yadav, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of impugned order dated 24.04.2015 passed by learned Chief Judicial Magistrate, Rewari, vide which the application under Section 311 Cr.P.C. moved by petitioner-complainant was dismissed and also the judgment dated 02.09.2015 passed by learned Addl. Sessions Judge, Rewari, vide which revision filed by the petitioner was also dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that petitioner-complainant filed an application before trial Court under Section 311 Cr.P.C. for summoning two witnesses namely Pawan Jangid and Naresh. As regarding Pawan Jangid, the complainant wants to produce the evidence that he

took ₹50,000/- from Pawan Jangid after selling wheat crop to him and that amount has been snatched by the accused. Regarding second witness Naresh, it is stated that he has been examined by the complainant as a defence witness, in the complaint filed by the accused Ravinder.

After hearing learned counsel for the complainant, learned CJM, Rewari dismissed the application vide impugned order dated 24.04.2015. Aggrieved from the above-said order, revision was filed by the petitioner-complainant and the same was also dismissed by learned Addl. Sessions Judge, Rewari, vide impugned judgment dated 02.09.2015.

Aggrieved from the above-said order and judgment, present petition has been filed.

From the record, especially, the impugned order and judgment, I find that as the charges are framed only under Section 323, 324 and 34 IPC and no charge has been framed regarding snatching of the amount etc. nor application for amending the charges has been given before the trial Court, therefore, the examination of Pawan Jangid to prove the fact that the complainant brought the money from him by selling the crop, in no way, can be held as material evidence. Learned CJM, Rewari has rightly declined to summon Pawan Jangid.

As regarding second witness Naresh, his name is not mentioned in the FIR nor in the statement of the complainant before the police. Even, the statement under Section 161 of this witness has

not been recorded by the police, which means that Naresh has not been joined in the investigation. Furthermore, PW-2 Parveen has also not named this witness. The mere fact that in the complaint case filed by the accused, this Naresh was examined in defence by the complainant, is no ground to summon him under Section 311 Cr.P.C. in the present case.

In view of the above discussion, I find that dismissal of application under Section 311 Cr.P.C. is correct and as per law. In no way, it can be held that it amounts to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

October 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE