

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

CRM-M-41416 of 2015
Date of decision: 07.12.2015

Anil Kumar

.....Petitioner

Versus

Ishwar Lal and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Liaqat Ali, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 29.09.2015, whereby application moved by the petitioner under Section 311 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short), was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had examined the concerned witness of the Police Station while leading his pre-charge evidence but the said witness had not brought the complete record. Therefore, it was very necessary in the interest of justice to summon the witness so that the entire record relating to the investigation conducted by the police in FIR No.25, dated 12.08.2001, under Sections 323, 379, 452, 427, 506 and 120-B of Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Division No.6, Ludhiana, could be proved on record.

Section 311 Cr. P.C. reads as under:-

***“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.”

Thus, as per the above provision, Court has ample power to summon any witness during trial, if his/her evidence appears necessary for the just decision of the case.

In the present case, petitioner had filed a complaint against the respondents under Sections 323, 379, 452, 427, 506 and 120-B IPC. Pre-charge evidence of the petitioner was closed by order and in a revision petition filed by the petitioner, he was allowed two opportunities to enable him to conclude his pre-charge evidence subject to payment of ₹3000/- as costs. However, petitioner was granted four effective opportunities to conclude his pre-charge evidence. But the petitioner had failed to conclude his pre-charge evidence and same was closed by order on 10.09.2015.

In these circumstances, the learned trial Court rightly held that application under Section 311 Cr.P.C. was liable to be dismissed as petitioner had been granted sufficient opportunities to enable him to conclude his pre-charge evidence.

No ground for interference by this Court is made out.

Dismissed.

December 07, 2015
kapil

(SABINA)
JUDGE