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

C.R.M-M No.43708 of 2015

Date of Decision : 23.12.2015

Desh Raj

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. D.S. Adlakha, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the order whereby the trial Court had declined the application under Section 311 Cr.P.C. and then in revision that order was upheld.

The allegations were that sister of the complainant-petitioner was attacked by her husband on 29.04.2013 and the present FIR was lodged in respect thereof. On 21.06.2013 the sister of the petitioner was murdered and a separate FIR was lodged in that regard. The charge was framed in May, 2014 and the case was fixed for prosecution evidence in the earlier FIR. In the meantime, the present case was being repeatedly adjourned for evidence. On 25.05.2015 the Court granted last opportunity for 06.07.2015.

On 06.07.2015 the evidence of the prosecution was closed since that was the second/third last opportunity and the matter was adjourned for 20.07.2015. It is on that date that for the first time the petitioner moved an application seeking examination of himself as witness and to produce some documents on record. Even copies of those documents were not placed on record. It was in these circumstances that the Courts below found the inaction of the petitioner for over two years and his omission to even annexed the copies of the documents which he wants to produce on record, to be a factor which disentitles him from leading additional evidence.

Today learned counsel for the petitioner has relied upon the following judgments:-

- i) Godrej Pacific Tech. Ltd. vs. Computer Joint India Ltd., 2008(3)R.C.R.(Criminal) 897;*
- ii) Sister Mina Lalita Baruwa vs. State of Orissa and others, 2013(16) SCC 173;*
- iii) Mannan S.K. And others vs. State of West Bengal and another, 2014(13)SCC 59;*
- iv) Jagjit Singh vs. State of Punjab and another, 2012(2) R.C.R. (Criminal) 632.*

There can be no quarrel with the proposition which has been laid down in all judgments that the Court has the power to seek any evidence which may be necessary to decide the real controversy in the case but to my mind the omissions/inaction in the present case disentitle the petitioner from such relief. It may be noticed that the production of documents under Section 311 Cr.P.C. has to be tempered against the basic requirement of speedy trial and also the processual requirement of placing on record the evidence sought to be produced as additional evidence so that the Court could determine whether it is in fact necessary or not.

Resultantly, the petition is dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 23, 2015

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**(AJAY TEWARI)
JUDGE**