

CRM-M-4989-2015 (O&M)

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

**CRM-M-4989-2015 (O&M).
Decided on: February 16, 2015.**

Jyoti Sarup

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Aman Dhir, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

Petitioner is a complainant in a private complaint against the Municipal Councillor and contractor who had allegedly demolished the building of the petitioner in the municipal area of Jalandhar. After summoning of the respondents-accused and production of evidence when the case is, at the stage, of defence evidence of the accused, the petitioner moved an application under Section 311 Cr.P.C., for seeking permission to examine two witnesses i.e., Clerk from the office of SDO (C), Land Acquisition Collector, Jalandhar, and Public Information Officer, Municipal Corporation, Jalandhar along with record of RTI applications to establish the Award dated 1.5.1986 passed by SDO (C)-cum Land Acquisition Collector, Jalandhar, regarding acquisition of 120 feet road for construction of Bus Stand without issuing notice under the Punjab Municipal Act, but it has been dismissed.

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I have heard the counsel for the petitioner who has submitted that powers under Section 311 Cr.P.C., have not been fairly exercised by the trial Court while dismissing the application. He has also submitted that evidence which is sought to be produced by filing an application under Section 311 Cr.P.C., is essential for the just decision of the case and to show that the award for acquisition had been dropped and that vide RTI application dated 1.10.2012, it is established that notice under Section 269 (1) of the Punjab Municipal Act, was not issued before the demolition of the shop.

I have considered the provisions of Section 311 Cr.P.C. and the stage of the trial. The petitioner as complainant should have mentioned the two facts now sought to be incorporated, at the threshold, and ought to have produced the relevant documents or the evidence at appropriate stage i.e., at preliminary stage or at pre-charge or post charge evidence stage. At this stage, it will tantamount to filling the lacunae left in the case causing prejudice to the private respondents.

No ground is made out to interfere in the order passed by the trial Court.

The petition is dismissed. However, it is observed that the right of the petitioner to produce the above said documents by availing the remedy under the provisions of Section 294 (3) Cr.P.C., will not be prejudiced. It will be open to the petitioner to file application under Section 294 Cr.P.C., and seek admission or denial

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of the documents. In case the documents are admitted, it will be open to the petitioner to rely on the provisions of section 294 (3) Cr.P.C.

February 16, 2015.
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(M.M.S. BEDI)
JUDGE