

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Misc. No. 5058-M of 2015

Date of Decision: 16.02.2015.

Rohit Kumar PETITIONER

Versus

Ajmer Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anuj Balian, Advocate,
for the petitioner.

LISA GILL, J.(Oral)

Petitioner challenges order dated 12.01.2015 passed by the Sub Divisional Judicial Magistrate, Naraingarh, whereby his application under Section 311, Cr.P.C. for sending the agreement to sell dated 29.12.2015 to Forensic Science Laboratory, Madhuban, has been dismissed.

Petitioner, Rohit Kumar is legal representative of complainant Harbans Singh, who has filed complaint under Sections 406, 420, 467, 468, 471 and 120-B, IPC, against respondents, Ajmer Singh and Madan Pal alleging that the

agreement to sell is drawn up on some blank signed paper available with the respondents.

The complainant led expert evidence in respect to this document. In defence, respondent too examined another expert. It is submitted by the learned counsel for the petitioner that in January, 2014, in the civil proceedings between the parties, both reports of the handwriting experts have been discarded. He submits that the present complaint is pending before the same Presiding Officer and in this situation, it is essential to have the opinion of Forensic Science Laboratory, Madhuban.

It is contended that the learned trial court vide the impugned order has wrongly dismissed his application.

Learned counsel for the petitioner while relying upon Hanuman Ram Versus State of Rajasthan and Ors. AIR 2009 Supreme Court 69, submits that the object underlying Section 311 Cr.P.C. is that there should not be a failure of justice on account of mistake of either party in bringing valuable evidence on record.

Learned counsel for the petitioner is unable to deny that no prayer or application was ever made at any earlier stage for sending the said agreement for examination to Forensic Science Laboratory, Madhuban. Not that decision in the above said civil suit would be a valid ground to grant

any relief to the petitioner in the present case, even the said decision was admittedly rendered in January, 2014 whereas, the present application has been moved in December, 2014. Petitioner has already led expert evidence qua the said document. He was never denied the opportunity to lead expert evidence. Application has been moved when the trial is its the final stage.

It is doubtless that a very wide power has been conferred on court under section 311, Cr.P.C, nonetheless it is to be exercised with great circumspection in order to prevent failure of justice. Ld. counsel is unable to point out any failure of justice in this case caused by dismissal of his application. Judgment of Hon'ble the Supreme Court in Hanuman Ram's case (supra) is of no avail to the petitioner in the facts and circumstances of this case. There is no ground which warrants interference by this court. There is no illegality or infirmity in the impugned order dated 12.01.2015.

Consequently, this petition is dismissed.

16.02.2015.

Anoop

(LISA GILL)

JUDGE