IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. M-5486 of 2015 (O&M)
Date of Decision: 19.02.2015.

Ajay Goyal .....Petitioner

Vs.

Sunny and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('*Cr.P.C.*' for short) challenging the order dated 25.11.2014 (Annexure P-5) whereby application moved by the prosecution under Section 311 Cr.P.C., was dismissed.

Respondents are facing trial in FIR No. 350 dated 22.11.2011 under Section 323, 506, 34 of the Indian Penal Code, 1860, Police Station City Tohana, registered at the instance of the petitioner. During the pendency of the trial, prosecution moved an application under Section 311 Cr.P.C. for summoning MHC, Police Station City Tohana, to prove Rapat No. 15 dated 23.11.2011.

Learned counsel for the petitioner has submitted that it was very necessary in the interest of justice to prove on record statement of respondent No. 1-Sunny Goel, recorded during investigation.

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

"311. Power to summon material witness, or

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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, in view of the above provision, the Court has ample power to summon any witness if it serves the ends of justice.

During the course of arguments, it has transpired that respondents have filed a private complaint by setting up a cross version. Now the complaint filed by the respondents has been tagged with the case registered on the basis of FIR in question. Thus, now the case registered at the instance of the petitioner and the private complaint filed by the respondents, would be decided simultaneously being a case of version and cross version. Moreover, for the prosecution case, the statement of respondent No. 1, recorded during investigation, cannot be said to be of much evidentiary value. Hence, the impugned order whereby application moved by the prosecution under Section 311 Cr.P.C., was dismissed, calls for no interference.

Dismissed.

(SABINA)
JUDGE

February 19, 2015
Gurpreet

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