

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

CRM-M-No.10258 of 2014

Decided on:-09.05.2016.

Harmesh Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. Deepender Singh, Advocate for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

Mr. Sharad Aggarwal, Advocate for
Mr. Lokesh Sinhal, Advocate for
respondents No.2 to 5.

HARI PAL VERMA, J. (ORAL)

Present petition filed under Section 482 Cr.P.C. is for quashing of the order dated 07.03.2014 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Faridabad, whereby the application filed by the petitioner/complainant under Section 311 Cr.P.C. to permit him to adduce additional evidence in FIR No.320 dated 30.06.2007, under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station, City Ballabgarh, Distt. Faridabad was dismissed.

Learned counsel for the petitioner contends that the aforementioned case was registered for a forgery of an agreement

to sell and receipt dated 09.08.2005. The original agreement to sell and receipts dated 09.08.2005 were attached with Civil Suit No.906 dated 30.01.2007 decided on 23.03.2012 by the Court of Smt. Yashika Yadav, Civil Judge (Jr. Divn.), Faridabad. He further submits that it is in the aforesaid circumstances, the original could not be brought on record in the present case, necessitating the petitioner to file an application under Section 311 Cr.P.C. to adduce additional evidence.

On the other hand, learned counsel appearing for respondents No. 2 to 4 has opposed the aforesaid prayer on the ground that the petitioner has been given ample opportunities to lead evidence and even these documents were well within the knowledge of the petitioner, it is after a lapse of four years, the petitioner has opted to file the present application to adduce additional evidence.

I have heard learned counsel for the parties.

The very basis of the FIR is with regard to forgery of the agreement to sell and the receipts and these documents were part of the record of the civil suit, hence the petitioner could not produce the same. However, in the present case, the documents sought to be placed as additional evidence have duly been referred in the challan i.e. photocopy of the agreement together with the receipt dated 09.08.2005 executed with Sukhbir.

Provisions of Section 311 as envisaged in Cr.P.C. are to be interpreted in a liberal manner. There is justification with the petitioner, as the original documents were part of the suit and it is at the behest of the Investigating Officer that these documents were

taken from the Civil Court for reference to the FSL. Therefore, there is justification with the petitioner for not being able to place these documents at the initial stage.

Accordingly, the present petition is allowed and order dated 07.03.2014 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Faridabad, is set aside. The petitioner is given an opportunity to adduce additional evidence and the trial Court is directed to consider the same in accordance with law.

However, it is made clear that since the case is pending from the year 2007, when the FIR was registered, trial Court is directed to give only one effective opportunity to adduce additional evidence unless there is justification for the Court to give another opportunity.

May 09, 2016
Anjal

(HARI PAL VERMA)
JUDGE