

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

CRM-M-11281 of 2015 (O&M)
Date of decision : 20.09.2016

Sandeep Sharma @ Neelu

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sarwan Singh, Sr. Advocate with
Mr. N.S. Rapri, Advocate and
Mr. G.B. Singh Nagar, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab

Mr. Abhinav Oberoi, Advocate
for the complainant.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') for quashing of order dated 29.01.2015, passed by learned Sessions Judge, Roop Nagar, whereby the application filed under Section 311 Cr.P.C., by the respondent/prosecution was allowed.

It is contended that learned Sessions Judge has erroneously allowed the application for leading the additional evidence under Section 311 Cr.P.C. of the respondent/prosecution. Learned Sessions Judge has ignored the factum that the said application was filed to fill up the lacunae as the prosecution has failed to disclose as to why the alleged photographs

were not brought on record at the time of filing the final report under Section 173 Cr.P.C.

On the other hand, the learned State counsel as well as the learned counsel for the complainant stated that the learned Sessions Judge has rightly allowed the application of the prosecution as the photographs were taken after the disclosure statements of the co-accused, Vishal Gupta and Gursewak Singh. The learned State counsel has furnished the copies of the ziminis which are duly recorded by the Investigating Officer, same are taken on record as Mark 'A'.

I have heard the learned counsel for the parties and carefully perused the entire record on file.

The petitioner has challenged the order dated 29.01.2015 vide which the application under Section 311 Cr.P.C. of the respondent/prosecution was allowed and the prosecution was permitted to lead the additional evidence. The only grievance of the petitioner is that to fill up the lacunae, the prosecution had moved the said application. However, after perusing the impugned order, it emerges that the necessity for moving the instant application had arisen due to the disclosure statements of the aforesaid co-accused. Learned Sessions Judge, passed the impugned order after observing that since the present case was still pending for prosecution evidence, therefore, no prejudice would be caused to the petitioner and his co-accused in case the photographs sought to be brought on record through application under Section 311 Cr.P.C. are allowed to be made part of the record. This Court has perused the aforesaid ziminis

recorded by the Investigating Officer, the factum of taking the photographs on the spot has been duly recorded therein. Since evidence sought to be brought on record by the prosecution by way of application in question came up during investigation, therefore, the Court feels that the same is essential for just and proper decision of the case, thus, no interference is called for.

Keeping in view the above, no interference is warranted in the the impugned order.

Accordingly, the instant petition is dismissed.

However, the trial Court shall ensure that the examination-in-chief and the cross-examination of the summoned witness(es) be carried out within two consecutive hearings preferably on the same date and if for some reasons the same is not completed, in that eventuality a very short date will be given and two effective opportunities will be given to the petitioner and his co-accused to cross-examine the summoned witness(es).

20.09.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No