

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

CRM-M-13799 of 2016.

Decided on:-25.04.2016.

Sumittar Singh.

.....Petitioner.

Versus

Sumittar Singh Numbardar and another

.....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. Avtar S. Khinda, Advocate for the petitioner.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 482 Cr.PC is for quashing of order dated 10.3.2016 passed by learned Judicial Magistrate 1st Class, Kapurthala whereby the application under Section 311 Cr.PC filed by the petitioner was dismissed.

Briefly stated, the petitioner has filed a complaint before learned Judicial Magistrate, Kapurthala under Sections 323, 352, 506 and 500 IPC on the allegations that on 27.7.2009 the petitioner along with his son Gagandeep Singh was present in District Court, Kapurthala to attend the proceedings of civil suit titled as "Ujagar Singh Versus Surjit Singh". On the said date, respondent No.1 Sumittar Singh Numbardar came in front of the complainant under the influence of liquor and used derogatory language. He caught hold the petitioner-complainant from his collar and threatened to

eliminate him.

While the aforesaid complaint was pending, the petitioner moved an application under Section 311 Cr.PC on 2.3.2016 to produce on record the documents on the premises that certain orders passed by the Courts have come into existence after filing of the complaint and due to inadvertent oversight, these orders could not be placed on record, which include order dated 25.2.2008 passed by this Court in CrI.Misc.No.42027-M of 2006.

Learned counsel for the petitioner has argued that the petitioner wanted to place on record judicial orders passed by the Courts from time to time. However, vide order dated 10.3.2016, the application filed by the petitioner was dismissed in illegal manner and in order to advance the substantial justice, the petitioner would have been permitted to place on record all the essential documents for just decision of the case.

I have heard learned counsel for the petitioner and perused the impugned order passed by learned Magistrate.

Admittedly, by way of application under Section 311 Cr.PC, the petitioner proposes to produce some orders which have been passed during pendency of the instant complaint, but none of the order sought to be produced on record is of such nature which can enable the Court to reach a just and proper decision. The trial Court has rightly declined the application under Section 311 Cr.PC as these documents are not essential for just

decision of the case. Moreover, these documents pertain to the period which have come into evidence after filing of the complaint and thus were not part of the complaint. Therefore, additional evidence of such documents cannot be allowed.

Moreover, in the case of *Rajaram Prasad Yadav Versus State of Bihar and another AIR 2013 (SC) 1746*, Hon'ble Supreme Court has held that the exercise of said power cannot be dubbed as filling in a lacuna in the prosecution case unless the facts and circumstances of the case make it apparent that the exercise of power by the Court would result in causing serious prejudice to the accused, resulting in miscarriage of justice.

As such, I find no infirmity, illegality or perversity in the impugned order dated 10.3.2016 passed by learned Judicial Magistrate, Kapurthala. As such, affirming the impugned order, the present petition, being devoid of any merit, is dismissed.

It is, however, made clear that the observations made above shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of availability of evidence.

April 25, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE