

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-17247 of 2016
DECIDED ON: May 19, 2016

SANJAY JAIN

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? (√)

Present: Mr. SPS Aulakh, Advocate,
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Section 482 of the Code of Criminal Procedure, petitioner has sought setting aside of order dated 30.04.2012 (Annexure P-1) passed by Judicial Magistrate Ist Class, Hisar whereby the application moved by the petitioner under Section 311 Cr.P.C. seeking producing and proving documents has been dismissed as well as setting aside of order dated 22.03.2016 (Annexure P-3) passed by ld. Additional Sessions Judge, Hisar vide which revision petition preferred against order dated 30.04.2012 has also been dismissed.

2. Factual back-drop of the case is that the petitioner preferred a complaint before ld. Judicial Magistrate on 03.07.2003 under Section 156(3) Cr.P.C. for registration of FIR and on the basis of said complaint FIR No. 87,

dated 21.07.2003, under Sections 406, 420, 466, 467 and 471 IPC was registered. During the pendency of trial, the petitioner preferred an application under Section 311 Cr.P.C., which was dismissed vide order dated 30.04.2012. Revision petition preferred against the said order was also dismissed by ld. Additional Sessions Judge, Hisar vide order dated 22.03.2016.

3. Through the application under Section 311 Cr.P.C., the petitioner has sought the permission to produce and prove the following documents:-

“(a). Judgment along with decree sheet dated 31.10.2007 passed in Civil Suit No. 261-C of 1999 by the COurt of Ms. Alka Malik, Civil Judge, Hisar;

(b). Judgment and decree passed in civil appeal No.102-CA of 2007 decided on 11.12.2010 passed by Shri Baljeet Singh, Additional District Judge, Hisar;

(c) plaint titled as “Ram Lal Jain vs. Balraj Singh and B. Singh” regarding 16 kanals 13 marlas of land bearing case No. 125-C dated 04.06.2003, now pending in the court of Ms. Raj Gupta, learned Civil Judge (Senior Division), Hisar fixed for 16.07.2012;

(d) Amended plaint bearing case No.99-C instituted on 01.05.2003 titled as “Suraj Mukhi vs. Ram Lal and others” along with written statement filed in Case No. 99-C, and order dated 17.01.2011 regarding dismissal of case No.99-C and

*(e) Judgment passed in Civil Appeal No.59-CA
decided on 15.09.2010 titled as "Prem Sagar etc.
vs. Balraj Singh and others".*

4. Learned counsel for the petitioner has contended that the application has been dismissed by the ld. trial court erroneously by observing that the same was moved at later stage but it is well settled proposition of law that an application under Section 311 Cr.P.C. can be moved at any stage even during the pendency of appeal. Both the courts below have mis-appreciated the legal proposition in this regard. Even otherwise, documents sought to be placed and proved on record are inter-related and necessary for the just and proper adjudication of the criminal trial. The additional evidence can be allowed at any stage, if it appears that such evidence is necessary for the just decision of the case.

5. It is also well settled that the provision contained under Section 311 Cr.P.C. should be given a liberal construction to impart justice to the parties. Thus, the impugned order passed by ld. Judicial Magistrate dated 30.04.2012 as well as order dated 22.03.2016 passed by Additional Sessions Judge, Hisar in revision petition, are not sustainable in the eyes of law and are liable to be set aside by way of acceptance of instant petition.

6. After bestowing due consideration to the submissions made by learned counsel for the petitioner and scrutinizing the impugned orders, this Court does not find any legal and factual substance in it.

7. Power enshrined under Section 311 Cr.P.C. is an extra ordinary one and should be resorted to only with the object of finding out the truth or obtaining proper proof for such facts, which will lead to a just and correct

decision of a case. No doubt, such a power can be exercised, at any stage of the proceedings but must be invoked by the Court only in order to meet the ends of justice for strong and valid reasons. The same is also required to be exercised with care, caution and circumspection.

8. Adverting to the facts of the case in hand, a perusal of impugned orders reveal that the case was fixed for pronouncement of final order. Even, the petitioner did not opt to appear and moved an application seeking exemption from his personal appearance, which was also declined. It appears that application under Section 311 Cr.P.C. was moved just to delay the pronouncement of final order. Similarly, it can also be said that the filing of application under Section 311 Cr.P.C. is nothing but a novel device adopted by the petitioner to stall the proceedings. Moreover, there is nothing on the record to suggest that documents sought to be produced and proved on record by way of additional evidence are necessary for proper adjudication of the matter in controversy.

9. In view of what has been discussed above, this Court does not find any merit in the instant petition. As such, the same is dismissed.

May 19, 2016
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(JASPAL SINGH)
JUDGE