

CRM-M No.22376 of 2016

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

**C.R.M-M No.22376 of 2016
Date of Decision : 26.07.2016**

Bikramjit Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Girish Agnihotri, Sr. Advocate
with Mr. Sukhjit Singh, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed against the order of the trial
Court dated 03.02.2016 declining an application under Section 311
Cr.P.C.

Admittedly by order dated 02.11.2015 the evidence of the

prosecution had been closed. That order was not challenged. Thereafter

the application (Annexure P-5) was filed purportedly under Section 311 Cr.P.C. It would be worthwhile to reproduce that entire application in extenso:-

“1. That the above said case is pending in this Hon'ble Court and is fixed for today.

2. That the charge sheet in this case was framed on 6.5.2015 and evidence of prosecution was closed on 02.11.2015 and such reasonable time was not granted to the prosecution for evidence.

3. That the injury No.3 was also declared as grievous in nature as such the charge is also liable to be amended.

It is therefore prayed that the prosecution may kindly be allowed to adduce the remaining evidence. It is also further prayed that the charge may also be amended in the interest of justice.”

A perusal of this application shows that completely vague averments have been made as regards which witnesses have to be examined. Section 311 Cr.P.C. is in the following terms:-

“311. Power to summon material witness, or 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.”

In my opinion, the ingredients of Section 311 Cr.P.C. have not been spelled out in the application at all. Moreover, if as is now being stated, the order closing the evidence was illegal, then that order should have been challenged but the prosecution cannot be allowed to accept the order closing the evidence and then sidestep it by moving an application under Section 311 Cr.P.C.

Consequently, the petition is dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

July 26, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No