

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M- 23143-2016

Date of decision: July 13, 2016.

Mohinder Singh Gill

... **Petitioner**

v.

State of Punjab and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Aman Dhir, Advocate for the petitioner.

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

A.B. Chaudhari, J. (Oral):

In a pending case filed by the police, i.e., police case, the applicant who was the original complainant-informant, filed an application under Section 311 Cr.P.C. styled as application for summoning additional evidence. In fact, Section 311 Cr.P.C. does not contemplate production of additional evidence but there is other provision in the Code. Be that as it may, the application was filed under Section 311 Cr.P.C. by the complainant. There is no provision in the Code in a police case where challan has been filed by the police, enabling the complainant to file an application under Section 311 Cr.P.C. in a pending trial. That can be done only if necessary permission to assist the procedure under Section 302 of the Code is sought and granted. But then, Section 302 Cr.P.C. is subject to Section 301 Cr.P.C.

In that view of the matter, the learned Judge has not examined the locus standi of the complainant to file the application. In any case, that appears to be a bona fide mistake on the part of the complainant in filing such application on his own. Hence the learned Counsel for the petitioner submits that he would like to withdraw the application and consequently the impugned order made thereon should not come in his way. In the interest of justice, the submission made by learned Counsel for the petitioner deserves to be accepted.

Since the case relates to the year 2012 and is not an old case, I make the following order:-

ORDER

- (i) CRM-M-23143-2016 is disposed of;
- (ii) the application under Section 311 Cr.P.C. (Annexure P-2) is allowed to be withdrawn. Consequently, the order made thereon, impugned herein, is set aside. Liberty is reserved in favour of the complainant in the subject matter to take such steps as may be available in law.

July 13, 2016.
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[**A.B. Chaudhari**]
Judge