

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

CRM-M-29303 of 2016 (O&M)

Date of decision : 24.08.2016

Pargat Singh and ors.

...Petitioners

Versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. L.S. Sidhu, Advocate for the petitioners.

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 setting aside the order dated 26.05.2016 (Annexure P-5), passed by learned Additional Sessions Judge, Tarn Taran, whereby the revision petition preferred by the respondent(s)/ prosecution against the order dated 11.08.2015 (Annexure P-3) has been allowed.

It is contended that learned Additional Sessions Judge has erroneously allowed the revision petition of the respondents against the order dated 11.8.2015 vide which the application for leading the additional evidence under Section 311 Cr.P.C. of the respondents was partly allowed in FIR No.23 dated 17.03.2007, registered under Sections 420, 467, 468 and 447 of the Indian Penal Code, at Police Station Sarhali, District Tarn Taran. Learned Additional Sessions Judge has ignored the factum that the said

application was filed to fill up the lacunae to demolish the defence of the petitioners established during the cross-examination of the prosecution witnesses as well as by producing the defence witnesses. Even in the said application, the respondents did not disclose whether deceased-Baljinder Singh, Patwari, was alive at the time of filing the challan or he died later on. Further, neither the respondents had placed on record the death certificate nor had they mentioned the date of death in the said application.

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

The petitioners have challenged the order dated 26.05.2016 vide which the application under Section 311 Cr.P.C. of the respondents was allowed and the prosecution was permitted to lead the additional evidence. The only grievance of the petitioners is that to fill up the lacunae and to demolish the defence of the petitioners established during the cross-examination of the prosecution witnesses as well as by producing the defence witnesses, the respondents 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 death of Halka Patwari, Baljinder Singh, who was one of the prosecution witnesses and the said application was moved after a month of his demise. Learned Additional Sessions Judge, passed the impugned order after observing that since the present case is still at its initial stage and prosecution witnesses are yet to be examined, therefore, no prejudice would be caused to the petitioners in case the documents sought to be brought on record through application under

Section 311 Cr.P.C. are allowed to be made part of the record. Learned Additional Sessions Judge also directed the respondents to supply the copies of such documents to the petitioners so that they may prepare themselves to meet with all these documents at trial. Since the person and evidence enshrined in the application in question appears to be essential for the just decision of the case, therefore, this Court also feels that learned Additional Sessions Judge has not committed any error by allowing the application under Section 311 Cr.P.C. of the respondents. There are no reasons for this Court to differ in opinion with the observations of learned Additional Sessions Judge.

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

Accordingly, the instant petition is dismissed.

24.08.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No