

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

CRL. MISC. No.M-30516 OF 2015
DATE OF DECISION : 17TH MAY, 2016

Rohit

.... Petitioner

Versus

State of Haryana & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE HARI PAL VERMA

* * * *

Present : Mr. Jainainder Saini, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

None for respondent No.2.

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HARI PAL VERMA, J. (ORAL)

Prayer made in the instant petition filed under Section 482 Cr.P.C. is for quashing of order dated 06.05.2015 (Annexure P-2) passed by Judicial Magistrate, First Class, Hisar in FIR No.189 dated 25.03.2014 registered under Sections 66 C/67 of Information Technology Act, 2000 and Section 469 IPC at Police Station Civil Lines Hisar.

Vide order dated 06.05.2015 the learned Court has allowed the application filed by respondent No.2 under Section 311 Cr.P.C. to place on record certain documents.

Learned counsel for the petitioner by referring to Section 311 has argued that as per Section 311 Cr.P.C. there is no provision in this Code to place on record the documents and the object of the very provision is to allow witness to appear. Section 311 Cr.P.C. reads as under:

“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.”

By referring to the provisions of Section 311 Cr.P.C. he has further argued that the applicant can recall the witness for examination-in-chief or for cross-examination and while examining such witness, can take on record the documents, but in any case it is to be through that witness. But in the case in hand there is no such prayer in the application. The application filed by the respondent-complainant is very cryptic and evasive.

Despite notice nobody has put in appearance for respondent No.2.

I have heard learned counsel for the petitioner and learned State counsel and have perused the Section 311 Cr.P.C.

The application moved by the respondent-complainant is very concise and the contents of the same read as under:

- “1. That the above noted case is pending in this Hon’ble Court for PWs today.
2. That in this case documents of forged Facebook ID are incomplete inadvertently. So complainant wants to place computer generated complete documents related to forged Facebook ID on Judicial File.

So it is therefore prayed that kindly allowed to place computer generated above documents of forged Facebook ID on Judicial File in the interest of Justice and for just decision of the case.

-sd/-Prem Kumar
Complainant Prem Kr. S/o
Bhagwan Dass r/o HRS.
-sd/-4.11.2014
Through APP”

The contents of the application nowhere remotely suggests that the complainant wants to place on record computer generated documents of forged Facebook ID through any witness. Once there is no provision under Section 311 to allow such documents to be taken on record directly, this Court finds that the order dated 06.05.2015 passed by the learned Magistrate is contrary to the aforesaid provisions of Section 311 Cr.P.C.. The very object of the provision of Section 311 Cr.P.C. is to call the witness for examination-in-chief or for cross-examination but not to accept the documents straightaway.

Accordingly, order dated 06.05.2015 is set aside and the present petition is allowed.

17th May, 2016
‘raj’

(HARI PAL VERMA)
JUDGE