

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

**CRM No.M-30825 of 2015 (O&M)**  
**Date of Decision: March 16, 2016**

Bharat Kishore

...Petitioner

VERSUS

Surinder Pal Singh

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Jasbir Singh, Advocate  
for the petitioner.

None for the respondent.

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**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the impugned order dated 02.05.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the application under Section 311 Cr.P.C. filed by accused-petitioner was dismissed.

Notice of motion was issued. However, none appeared on behalf of respondent despite service.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application was filed by the accused under Section 311 Cr.P.C. for recalling the complainant for further cross-examination to exhibit documents. As per accused's

case, learned counsel for the accused was directed that certain documents cannot be put to the witnesses and directed him to un-exhibit those documents but those documents are for just decision of the case. It is also the case that certified copies of those documents were not available with the accused at the time of cross-examination of the witnesses. Learned JMIC, Jalandhar, vide impugned order dated 02.05.2015 dismissed the application mainly on the ground that such powers under Section 311 Cr.P.C. can be exercised with due care and caution and this cannot be used to fill up the lacuna and the documents, which the accused wants to put to the witnesses, were in the custody of the accused and he could not get the certified copies of those documents at the time of cross-examination and thus he cannot be allowed at this stage to put those documents to the witnesses.

After hearing learned counsel for the petitioner and after going through the impugned order, I find that the order dated 02.05.2015 passed by learned JMIC, Jalandhar, is not as per law. The application under Section 311 Cr.P.C. can be filed at any stage. In no way, it can be held as filling up of lacuna. The copies of the documents were to be put to the witnesses and as those were not certified copies, therefore, the Court below directed learned counsel for the accused to un-exhibit those documents. In the impugned order, it is nowhere mentioned that these documents are not necessary for the just decision of the case. As copies of the documents were not allowed to put to the witnesses not being certified copies, therefore, in no way, it can be held that filing of application

under Section 311 Cr.P.C. amounts to filling up of lacuna at this stage. As it is argued that documents, which the accused-petitioner wants to put to the witnesses in cross-examination, are necessary for the just decision of the case, therefore, this application under Section 311 Cr.P.C. should have been allowed. The copy of the application under Section 311 Cr.P.C. has also been placed on the record. The reasons have been mentioned as to how these documents are relevant and necessary. The documents are Ex.D1 to Ex.D67, which are already placed on the record.

Keeping in view the above discussion, I find that as these documents are necessary for the just decision of the case, therefore, the application filed by the accused-petitioner under Section 311 Cr.P.C. is allowed and the impugned order dated 02.05.2015 passed by learned JMJC, Jalandhar, is set aside.

Therefore, finding merit in the present petition, the same is allowed.

**March 16, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**