

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-36468 of 2014 (O&M)
Date of Decision: May 17, 2016

M/s Kaushal Steel and another

...Petitioners

VERSUS

M/s Data Sons

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Adarsh Jain, Advocate
for the petitioners.

Mr.Ajay Ghangas, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent M/s Data Sons for quashing of order dated 16.07.2014 passed by learned Judicial Magistrate Ist Class, Faridabad, whereby application filed by the complainant under Section 311 Cr.P.C. was allowed and for quashing of judgment dated 16.09.2014 passed by learned Addl. Sessions Judge, Faridabad, vide which the revision filed by the petitioner was dismissed.

Notice of motion was issued and learned counsel for the respondent appeared and contested the petition.

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

From the record, I find that M/s Data Sons filed a complaint against M/s Kaushal Steel and Sanjay Kaushal under Section 138, 139, 141 of the Negotiable Instruments Act and Section 420 IPC. An application was filed by the complainant under Section 311 Cr.P.C. for leading additional evidence. It is mainly stated in the application that three similar complaints against the accused persons were pending pertaining to the same transaction and at the time of leading evidence in all the complaints, same witnesses were recorded but due to inadvertence, bills/invoices could not be brought on record in this case. It is further submitted in the application that accused has already submitted sales tax return thereby showing and reflecting the invoices/bills through which the material was supplied by the complainant to accused.

Learned JMJC, Faridabad, vide order dated 16.07.2014, accepted this application. The objection raised by the counsel was that arguments have been partly heard by the lower Court, therefore, at this stage, the application is not maintainable.

Firstly, I find that, application under Section 311 Cr.P.C. can be filed at any stage. Secondly, for allowing the application under Section 311 Cr.P.C., the Court should be satisfied that evidence which the applicant wants to produce, is necessary and essential for the just decision of the case. In the present case, to show the existing liability, the complainant wants to produce the bills and invoices, which is material evidence for the just decision of the case. There will be no prejudice to the petitioner as he will have the right to cross-examine

the witness and further he can lead the defence evidence qua that evidence.

In view of the above discussion, I find that order dated 16.07.2014 passed by learned JMIC, Faridabad and judgment dated 16.09.2014 passed by learned Addl. Sessions Judge, Faridabad, are correct, as per law and the same are upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

May 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE