

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

CRM No.M-38727 of 2016 (O&M)

Date of Decision: October 27, 2016

Sunil @ Pappu and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjay Vashisth, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Nisha, for quashing of the order dated 14.10.2016 passed by learned Sessions Judge, Bhiwani, vide which the application under Section 311 Cr.P.C. filed by the prosecution was allowed.

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

From the record, I find that during the trial, an application was filed by Rohit through Public Prosecutor under Section 311 Cr.P.C. The brief facts of the case as noted down in the order dated 14.10.2016 are as under:-

“3. On 16.05.2015, Police Station got the information over the phone that an altercation has taken place at the house of Om Parkash Kaushik. On getting the information, ASI Jagdish

Kumar along with other police officials reached the spot. However, nobody made any statement. Later on, Om Parkash died. On 17.05.2015, Pawan, the brother-in-law of the deceased, made the statement before the police, who reported that for the last six months, he has been residing with his sister Nisha wife of Om Parkash. On 16.05.2015, at about 8.30 p.m., he was sleeping in the 'gher' near the house of Nisha. There took place an altercation at the house of Nisha, where he found that Accused Sunil @ Pappu son of Gajanand and Amit @ Hanny son of Jai Parkash were causing injuries to his brother-in-law Om Parkash with wooden strips. Om Parkash was lying on the ground. Nisha also reached the spot. Accused threatened them to leave and stated that they would kill them also. Accused stated that they would kill Om Parkash. Many neighbours gathered there. Seeing them, Accused Amit @ Hanny fled the spot. Accused Sunil @ Pappu stated that Om Parkash has an injury on his head. Pappu shifted Om Parkash to the hospital. However, Pappu came back with the vehicle and told that Om Parkash had died. Later on, Pappu also fled. Accordingly, the case was registered. Prosecution has so far examined 13 witnesses. With this background, I come to the impugned application.”

The prosecution wants to examine Dr.M.L.Sharma, who had treated Om Parkash, who remained in his hospital for 4-5 days. The complainant party and accused are related to each other as they have common ancestor. The applicant also wanted to produce the copy of the judgment and decree regarding the civil proceedings.

Learned counsel for the petitioners, at the time of arguments, stated that he has no objection regarding producing of the documents related to civil proceedings. He objected to the summoning of Dr.M.L.Sharma, on the ground that it will amount to filling up of lacuna and making new case.

The perusal of the record shows that Om Parkash remained admitted in the hospital of Dr.M.L.Sharma for 4-5 days. Therefore, the production of the record as well as the statement of Dr.M.L.Sharma are essential for the just decision of the case. The Court has ample powers to

be necessary for the just decision of the case. Furthermore, the evidence of the prosecution is still going on.

In view of the above discussion, I find that the order dated 14.10.2016 passed by learned Sessions Judge, Bhiwani, is correct and as per law. No illegality has been committed while passing the impugned order dated 14.10.2016.

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

October 27, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No