

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

CRM M-41559 of 2013

Date of decision : 19.02.2016

Santra Devi

....Petitioner

V/s

Anguri & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for the petitioner.

Mr. Akshay Jindal, Advocate for the respondents.

RAJAN GUPTA J.

Petitioner has impugned order passed by Sessions Judge, Panipat upholding the order of Judicial Magistrate, Ist Class, Amritsar whereby her application to summon witnesses has been rejected.

Learned counsel for the petitioner submits that courts below have committed a grave error while rejecting the application for summoning the witnesses. According to him, examination of said witnesses is necessary for just decision of the case. Thus impugned orders deserve to be set-aside.

Plea has been vehemently opposed by learned counsel appearing for the respondents. According to him, petitioner has availed numerous opportunities to lead evidence but has failed to conclude the same.

I have heard learned counsel for the parties.

Petitioner filed a complaint alleging that accused in connivance with each other had committed fraud on her by

solemnized her marriage with Hari Kishan knowing fully well that he was suffering from HIV+. After some time, her husband died due to said disease and her in-laws turned her out from the matrimonial home. Both the parties led their evidence. After conclusion thereof, petitioner moved instant application under section 311 Cr.P.C. seeking to prove that deceased Hari Kishan was suffering from HIV positive. Trial court rejected the same observing that no fresh ground has been put forth by the petitioner on which the witnesses can be summoned. Moreover, complaint pertains to the year 2004 and she was fully aware of the evidence to be led by her. There is, thus, no justifiable ground made out to lead evidence at this stage. Petitioner challenged the said order before the Sessions Judge, Panipat. It, however, dismissed the same observing that evidence of the witnesses cited by the petitioner would not be necessary for just and proper adjudication of the case. Petitioner was trying to prolong the trial. I find no infirmity with the orders passed. In my considered view, a perusal of the application filed by the petitioner under section 311 Cr.P.C. makes out no case for recalling the witness. No case for interference in inherent jurisdiction of this court is made out. Dismissed.

February 19, 2016

Ajay

(RAJAN GUPTA)
JUDGE