

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

**Criminal Misc. No.M-4288 of 2016
Date of Decision: 05.02.2016**

Naresh Kumar

... Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

- 1. Whether reporters of local newspapers may be allowed to see judgment?*
- 2. To be referred to reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present:- Mr. Bhupender Singh, Advocate
for the petitioner.

HARI PAL VERMA J.

Petitioner – Naresh Kumar has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for setting aside the order dated 16.11.2015, whereby application under Section 311 CrPC filed by the petitioner has been dismissed.

Learned counsel for the petitioner has contended that the prosecution while presenting challan did not mention the name of the doctors who had operated upon and treated the

petitioner in the list of witnesses. Therefore, the petitioner filed an application under Section 311 CrPC for summoning the doctors namely Dr. Deep Kishore, Dr. Shekhar and Dr. Bhupender Shreewatch along with necessary treatment record of the petitioner with a prayer that in case the treatment record is not proved on record, the case of the petitioner-complainant shall suffer adversely.

I have heard learned counsel for the petitioner and perused the impugned order.

It will be relevant to reproduce Section 311 CrPC which 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.”

Thus, it is evident that while invoking Section 311 CrPC, the Court is required to consider that the best available evidence is brought on record before the trial Court. Moreover, power under Section 311 CrPC is a discretionary power to summon any witness which is essential for the just decision of the case. However, said discretion has to be exercised judiciously.

The name of Dr. Shekhar is already present in the list of witnesses and he is yet to be examined in the witness box. Therefore, the instant application seeking summoning of other doctors namely Dr. Deep Kishore and Dr. Bhupender Shreewatch is nothing but introduction of new witnesses in order to prolong the trial.

Therefore, no ground is made to interfere into the impugned order dated 16.11.2015 passed by the trial Court.

The petition is dismissed.

February 05, 2016
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(HARI PAL VERMA)
JUDGE