

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

CRM M-42120 of 2015

Date of decision : 27.04.2016

Surender

....Petitioner

V/s

Krishna & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vivek Khatri, Advocate for the petitioner.

Mr. Jitender Dhanda, Advocate for the respondents.

RAJAN GUPTA J.

Present petition is directed against the order passed by Judicial Magistrate Ist Class, Hisar whereby application moved by petitioner under section 311 Cr.P.C. for summoning the Incharge/Record Keeper from PGIMS, Rohtak has been rejected.

Learned counsel for the petitioner submits that concerned doctor stepped into the witness box and he stated that in the absence of record it was not possible for him to give a statement. Instant application was necessitated due to this reason.

Learned counsel appearing for the respondents has opposed the plea.

I have heard learned counsel for the parties.

It appears that a complaint was lodged by petitioner alleging that accused had caused various injuries to him. On the basis of preliminary evidence accused were summoned to face trial for offences under sections 323/326/452/506/34 IPC. During pendency of trial, one doctor Jaipal appeared before the court. He

deposed that as the Record Keeper of PGIMS, Rohtak had refused to hand-over the record, it was not possible for him to make a statement. Petitioner thereafter moved instant application seeking to examine Record Keeper of the said institute. Prayer has been rejected by the court below observing that it was not necessary to call the Record Keeper. I am of the considered view that order passed by court below is unsustainable. Stand of the complainant is that he underwent treatment at PGIMS, Rohtak and certain X-ray, tests were conducted. Record is, thus, necessary for proving the injuries caused to the petitioner in the incident. Wide powers are conferred on the court under section 311 Cr.P.C. to summon the witness to depose before the court if his evidence appears to be necessary for just decision thereof. According to counsel for the petitioner, Record Keeper sought to be examined, was mentioned in the list of witnesses as well.

Under the circumstances, present petition is allowed and impugned order dated 20.11.2015 is hereby set-aside. One opportunity is granted to summon the Incharge/Record Keeper from PGIMS, Rohtak in order to enable him to depose before the court. This shall, however, be subject to payment of ₹5,000/- as costs to be remitted to respondents. Allowed in these terms.

April 27, 2016

Ajay

(RAJAN GUPTA)
JUDGE