

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45420-2016

Date of decision: December 19, 2016.

Mohinder Singh Gill

... **Petitioner**

v.

State of Punjab and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Aman Dhir, Advocate for the petitioner.

A.B. Chaudhari, J. (Oral):

Taken up for final disposal in view of the peculiar controversy involved.

The petitioner who is a complainant in criminal case No. 88559/13 'Mohinder Singh v/s Rajinder Kumar and others', filed application (Annexure P-4) dated 26.7.2016 purported to be under Section 311 Cr.P.C. for summoning additional evidence and thereby asking for examination of Clerk from the office of Sub Registrar, Jalandhar-I on the ground that 23 sale deeds mentioned in the application were fraudulently executed which was his property.

The trial court rejected the application and hence this petition has been filed. The reason given by the trial court is that the same are not relevant. Without verification of the 23 certified copies of sale deeds, as to whether they were relevant or not, the reason given by the trial court is wrong. Equally, the petitioner is required to be blamed since he filed the

application without satisfying the court about the existence of 23 sale deeds for which the petitioner was required to produce before the trial court the certified copies of 23 sale deeds. It is well settled that the court cannot exercise the power in the way sought for by the petitioner unless it is satisfied about the relevant facts or documents. In that context, the reason can be said to be correct but then, without examining the certified copies, the impugned order cannot be upheld. Since the petitioner is equally to be blamed, the following order would sub-serve the interest of justice:-

ORDER

- (i) CRM-M-45420-2016 is disposed of;
- (ii) Application (Annexure P-4) is allowed to be withdrawn and consequently the impugned order thereon is also set aside. Liberty is reserved in favour of the petitioner to file a fresh application with certified copies of all the documents with 23 sale deeds which shall be decided in accordance with law.

December 19, 2016.
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[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No