
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.116

CRM No.M-6590 of 2016
DECIDED ON: February 24, 2016

MANDEEP KAUR KHAGURA

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ashish Grover, Advocate, for the petitioner.

JASPAL SINGH, J

Through this petition preferred under Section 482 Cr. P.C. by Mandeep Kaur Khagura has sought the quashing of the order dated January 22, 2016 (Annexure P-6) passed by the Learned Chief Judicial Magistrate, Faridkot in the proceedings rising out of FIR No. 283 dated October 16, 2010, registered under Section 389 IPC at Police Station Kotwali Faridkot, District Faridkot (Annexure P1), vide which the application dated December 18, 2015 (Annexure P4) under Section 311 Cr.P.C. for summoning Branch Manager or the concerned officer(s), Canara Bank, Faridkot has been dismissed.

The contention of the learned counsel for the petitioner is that through an application under Section 311 Cr.P.C. was filed by the State for summoning of Branch Manager or the concerned Clerk, Canara Bank, Faridkot, submitting that valuables of the complainant were stolen by the accused which included keys of her locker. And further that due to stealing of the keys of her locker, the petitioner had to get her locker broke open by paying the “locker breaking charges”. Thereafter new keys were issued to her. So by examining the Branch Manager or the concerned official of the Canara Bank, the petitioner intends to prove that she paid the “locker breaking charges” and got issued the new keys to operate her locker, which would further establish that the keys of the locker belonging to the petitioner were stolen by the accused.

The petitioner has filed a complaint under Section 389 IPC that the respondent-accused has stolen some valuable articles belonging to her as well as keys of the locker. The Branch Manager was earlier summoned but he was given up by the prosecution.

No doubt, Section 311 Cr.P.C. confers vide powers on the Court to summon any other person as a witness at any stage of the trial though not examined as a witness or recall and re-examine any such person already examined. But before the summoning of any such person as a witness, the Court is to satisfy itself that his evidence appears to be essential for the just a decision of the case.

In the case in hand, the examination of the Branch Manager or the concerned official is not essential because from his testimony, the allegation of committing theft of valuable articles including the keys of the

locker cannot be established against the accused because the issuance of new keys or moving an application does not ipso facto mean that the keys were stolen by the accused. The commission of theft of the valuable articles or the keys of the locker belonging to the complainant is required to be proved by the complainant independently and not on the basis of such assertions or assumptions.

Thus, this Court is of the considered view that moving an application under Section 311 is nothing but to cause delay in the disposal of the complaint, if any, filed by him. Moreover, during the course of arguments, the learned counsel for the petitioner could not point any illegality or infirmity in the impugned order. Rather, this Court is of the considered view that the instant petition is nothing but an abuse of the process of law. As such, the same stands dismissed.

February 24, 2016

Ankur

**(JASPAL SINGH)
JUDGE**