

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

CRM-M-758-2016 (O&M)

Date of decision: October 04, 2016.

Ram Chander

... **Petitioner**

v.

Minder @ Ravinder and others

... **Respondents**

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

Present: Shri Sagar Aggarwal, Advocate for the petitioner.

Shri Chetan Sharma, Assistant Advocate General, Haryana.

None for respondents No.1 & 2.

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

Rule. Heard forthwith. Respondents are absent though served.

Shri Chetan Sharma, AAG, Haryana appears for the State.

Perused the impugned orders rejecting the application under
Section 311 Cr.P.C. Seen the order of this Court made on 11.1.2016.

Case of the petitioner is that accused No.1 and 2 were driving
the respective jeeps competing with each other as if they were in a racing
competition. The jeeps came from the opposite direction and in the
accident, the deceased driving the motorcycle was hit and he died.

The petitioner wanted to examine two eye witnesses who,
according to him, were attempted to be won over and one doctor on the
post-mortem report. The court below has rejected the application on the
ground that the trial was pending since 2010 and ample opportunities were

granted to the petitioner. The trial court also observed that the power under Section 311 Cr.P.C. was wide enough to allow the petitioner to examine those witnesses. But then, the petitioner did not grab the opportunity to examine those witnesses. The trial court stated that the complainant could not be allowed to reopen the trial, which reason, according to him, appears to be faulty and inconsistent with the earlier reasoning in para 5.

In my opinion, looking to the nature of the incident, examination of two witnesses and the doctor performing post mortem would be most essential and would assist the Court in finding out the truth and the grave nature of the incident. The trial court ought to have therefore exercised the jurisdiction to allow the complainant to examine those witnesses. At the same time, the petitioner is equally at fault in not bringing the witnesses for expeditious trial, which is pending since 2010. Therefore, by way of a chance, this Court is inclined to allow the petitioner to examine those witnesses before the trial court. The following order is therefore passed:-

ORDER

- (i) CRM-M-758-2016 is allowed;
- (ii) Application under Section 311 Cr.P.C. is allowed;
- (iii) the impugned order is quashed and set aside;
- (iv) the petitioner shall examine those witnesses in any case by way of last chance and if the petitioner seeks an adjournment, the trial court shall punish the petitioner with heavy costs;

(v) in any case, the trial shall be completed within four months
from today.

October 04, 2016.
kadyan

[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No