

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

**CRR No.1651 of 2016
Date of Decision: 07.12.2016**

Gaurav @ Roda and Others

.....Petitioners

Vs.

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sunil Panwar, Advocate, for the petitioner.

Mr.Himmat Singh, DAG, Haryana.

Mr.Vivek Goyal, Advocate, for respondent No.2.

RITU BAHRI, J. (ORAL)

The petitioner has come up in the revision petition against the order dated 25.03.2016 of learned Additional Sessions Judge, Panchkula, dismissing the application dated 23.02.2016 under Section 391 Cr.P.C. filed by the petitioners-accused for allowing leading of additional evidence to prove DDR No.17 dated 07.06.2014 recorded at Police Post Barwala and the Calandra No.13 dated 11.06.2014 filed under Section 107/151 Cr.P.C.

On 07.06.2014, a complaint was recorded vide DDR No.17 by Police Post, Barwala by the complainant and thereafter, calandra No.13 dated 11.06.2014 was filed under Section 107/151 Cr.P.C.. Subsequently, on the basis of an application dated 01.07.2015, case FIR No.175 dated 01.07.2015 was recorded under Section 354 IPC at Police Station Chandimandir, District Panchkula. After conclusion of the trial, petitioners

vide judgment dated 09.10.2015 passed by learned JMIC, Panchkula and sentenced to undergo simple imprisonment of one year and to pay fine of Rs.500/- each.

On an application made by the petitioner under Section 391 Cr.P.C. for allowing the additional evidence of which reply (Annexure P-2) has been filed. Thereafter, impugned order dated 25.03.2016 has been passed stating therein that ASI Sukhbir Singh appeared before the trial Court as PW-4 and he was duly cross-examined with reference to the complaint given by the victim and even filing of calandra under Section 107/51 Cr.P.C.

Learned counsel for the petitioner has argued that DDR No.17 dated 07.06.2014 is an essential document for just decision of the case and the Calandra No.13 dated 11.06.2014 filed under Sections 107/51 Cr.P.C. wherein allegations of giving abuses/teasing /indecent behaviour made against the petitioners were found false, were parts of official record prepared in the course of due performance of statutory duties and the same could be proved by production of original record by the lawful custodians thereof. The prayer of the petitioner for summoning ASI Sukhbir Singh, who stood examined as PW-4, by way of additional evidence should have been considered in the light of the provisions of Section 311 Cr.P.C to arrive at a just decision of the case, ASI Sukhbir Singh deserved to be recalled and re-examined by this Court even by recourse to the inherent jurisdiction under Section 482 Cr.P.C.

In view of the above, prayer of the petitioner is allowed by setting aside the order dated 25.03.2016 and direction is given to appellate

Court to recall the PW-4 ASI Sukhbir Singh for examination again to prove the documents i.e. DDR No.17 dated 07.06.2014 and the Calandra No.13 dated 11.06.2014 filed under Sections 107/151 Cr.P.C.

(RITU BAHRI)
JUDGE

07.12.2016
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>