

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

Criminal Revision No.1856 of 2016

Date of Decision:-17.05.2016

Purshottam Dass

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. S.K. Tripathi, Advocate
for the petitioner.

HARI PAL VERMA J.(Oral)

The present revision petition has been filed against the order dated 25.4.2016 passed by the Additional Sessions Judge, Rewari, whereby the application filed by the petitioner under Section 391 Cr.P.C. was dismissed.

Briefly stated on the basis of complaint made by Renu Verma wife of Shiv Kumar, FIR No.223 dated 17.6.2010, under Sections 323 and 506 IPC was registered at Police Station Model Town, Rewari against the petitioner Purshotam Dass and co-accused Vijay Singh son of Ganga Singh.

The accused persons in furtherance of their common intention have voluntarily caused simple injuries to the complainant with blunt weapon and have further criminally intimidated her by threatening to caused harm and thereby committed offence punishable under Sections 323 and 506 IPC. Thereafter, the trial Court convicted the petitioner vide judgment dated 3.2.2014 and vide separate order dated 4.2.2014 sentenced him to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/- for offence under Section 323 IPC. He was further sentenced to undergo rigorous imprisonment for one year for offence under Section 506 IPC and to pay fine of Rs.1,000/-.

The judgment of conviction and sentence was made subject matter of appeal before the learned Additional Sessions Judge, Rewari and it is during the pendency of the appeal, the petitioner moved an application under Section 391 Cr.P.C. for additional evidence as the earlier counsel, namely, Mr. Attar Singh, who conducted the case, did not produce the above documents, which were otherwise necessary and essential documents for the just decision of the case. Accordingly, permission was sought to place on record the said documents.

Learned Additional Sessions Judge, Rewari vide judgment dated 22.4.2016 dismissed the said application as the petitioner had failed to adduce any reason, which may warrant acceptance of additional evidence.

Learned counsel for the petitioner has argued that by virtue of

Section 391 Cr.P.C., the Appellate Court may take further evidence, which is relevant and material for the just decision of the case, but the Court despite empowered to take such documents in evidence, has illegally declined the application. He further states that in order to establish the relationship and motive of the complainant, he intends to place on record these documents.

I have heard learned counsel for the petitioner.

Section 391 Cr.P.C. is reproduced as under :-

391. Appellate Court may take further evidence or direct it to be taken.

(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.”

There is no dispute about the aforesaid provision and the fact that the Appellate Court is empowered to take further evidence or may direct the Court to take such evidence into consideration but for that purpose the reason is required to be mentioned. A bare perusal of the

application dated 28.8.2015 (Annexure P-3) filed by the petitioner nowhere even remotely suggests as to for what object the petitioner intends to place on record the documents. The application is absolutely silent and evasive and does not disclose any reason/ground for which the petitioner intends to place on record these documents. In order to seek permission to place on record the documents as required under Section 391 Cr.P.C., it is incumbent upon the applicant to give the reason, but no such reason has been suggested in the application.

Therefore, this Court does not find any infirmity in the order dated 25.4.2016 passed by learned Additional Sessions Judge, Rewari.

The revision petition stands dismissed.

May 17, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE