

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

CRR No. 2787 of 2016

Date of decision:- August 09, 2016

Sushil Kumar Bansal

.....Petitioner...

Vs.

State of Punjab and others

....Respondents...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Ankush Verma, Advocate,
for the petitioner.

JASPAL SINGH, J.

Challenge in this revision petition is to the order dated 27.07.2016 passed by Id. Additional Sessions Judge, Ludhiana vide which application filed by the complainant under Section 311 Cr.P.C. was dismissed.

2 Through the aforesaid application, petitioner has sought summoning and examining of (i) concerned clerk/record keeper to prove on record the certified copies of the application along with FIR No.79, dated 21.06.2014 as well as the statement of Nisha Aggarwal/accused/respondent No.2 and (ii) Sh. Kapil Kumar son of late Ashok Kumar, resident of House No. 3108/2, New Tagore Nagar, Ludhiana, being neighbour, eye-witness of the occurrence.

3. The contention of learned counsel for the petitioner is that an application moved under Section 311 Cr.P.C., dated 22.04.2016 has been

wrongly dismissed by the Id. Additional Sessions Judge, Ludhiana just by observing that it has been moved at the fag-end of the trial and further that Kapil Kumar has not been cited as one of the prosecution witnesses. In fact, as per the provisions of Sections 311 Cr.P.C., the Court has wide powers to summon the material witness(es), examine him/her at any stage of inquiry, trial or other proceedings, even though, he was not earlier cited as a witness but the court is obliged to summon, examine or recall/re-examine any person, if his/her evidence appears to be essential for the just decision of the case.

4. As far as the legal proposition is concerned, there is no dispute that a person can be summoned at any stage of the inquiry, trial or other proceedings but provided that examination of such a witness is essential for the just decision of the case.

5. Adverting to the facts of the case in hand, Kapil Kumar is not in any way related to the matter. There is not even a slightest reference that he was present during the course of occurrence or that he witnessed the same. Neither, his statement under Section 161 Cr.P.C. has been recorded nor his name figures as one of the witnesses in the list annexed with the report under Section 173 (2) Cr.P.C. No doubt, any person can be examined/recalled/summoned as witness but he must have some concern with the matter in question.

6. Here, it would also be pertinent to mention that complainant has already been examined as PW-2 during trial but he did not utter a single word with regard to the presence of Kapil Kumar at the spot or that he had witnessed the occurrence. The evidence sought to be adduced by way of

additional evidence is not at all relevant for the just and proper adjudication of the matter in controversy. Rather, the application appears to have been filed just to delay the disposal of the trial. Moreover, during the course of arguments, learned counsel for the petitioner could not point out any infirmity, illegality, impropriety or perversity in the impugned order. Otherwise also, this Court is of the considered view that the impugned order is absolutely in consonance with the settled proposition of law.

7. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, the same stands dismissed.

August 09, 2016

sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**