

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CRR No.4511 of 2015 (O&M)

Patanjali Buildcon Private Limited and others
...Petitioners

VERSUS

Mahabir
...Respondent

(ii) CRR No.4660 of 2015 (O&M)

Patanjali Buildcon Private Limited and others
...Petitioners

VERSUS

Jagbir
...Respondent

(iii) CRR No.4662 of 2015 (O&M)

Patanjali Buildcon Private Limited and others
...Petitioners

VERSUS

Satbir
...Respondent

(iv) CRR No.4670 of 2015 (O&M)

Patanjali Buildcon Private Limited and others
...Petitioners

VERSUS

Karambir
...Respondent

(v) CRR No.4671 of 2015 (O&M)

Patanjali Buildcon Private Limited and others
...Petitioners

VERSUS

Dharambir
...Respondent

(vi)

CRR No.4672 of 2015 (O&M)

Patanjali Buildcon Private Limited and others

...Petitioners

VERSUS

Jagbir

...Respondent

(vii)

CRR No.4673 of 2015 (O&M)

Patanjali Buildcon Private Limited and others

...Petitioners

VERSUS

Dharambir

...Respondent

(vii)

CRR No.4797 of 2015 (O&M)

Patanjali Buildcon Private Limited and others

...Petitioners

VERSUS

Karambir

...Respondent

Date of Decision: January 25, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manoj Makkar, Advocate
for the petitioners.

INDERJIT SINGH, J.

Learned counsel for the petitioners contended that all the cases can be taken up together and can be decided with one order as the main dispute is one and the same in all the cases.

This judgment shall dispose of eight above-mentioned

connected cases as the matter in dispute is same in all the cases. All the above-mentioned criminal revision petitions have been filed by the petitioners Patanjali Buildcon Private Limited, Balwan Singh and Raj Bala against respondents, challenging the order dated 14.10.2015 passed by learned Judicial Magistrate Ist Class, Rohtak, whereby the application under Section 311 Cr.P.C. filed by the petitioners-accused in all the cases was dismissed.

The brief facts are taken from CRR No.4511 of 2015.

As per the facts of the case, an application under Section 311 Cr.P.C. was filed by learned counsel for the accused-petitioners for recalling CW-3 Om Parkash and CW-4 Jagbir for further cross-examination on the ground that the cross-examination was earlier conducted by previous counsel but certain material questions could not be put to the witnesses in their cross-examination. Reply was taken, in which it is stated that witnesses were cross-examined by learned counsel for the accused in his presence and hence effective opportunity was already given to the defence for cross-examination of the witnesses. Merely because the accused has engaged a new counsel, cannot be a ground for recalling the witnesses.

Learned JMJC, Rohtak, vide impugned order dated 14.10.2015, after discussing the law on the point, held that witnesses CW-3 and CW-4 were examined-in-chief on 22.04.2014. Thereafter, on 15.01.2015, CW-4 was cross-examined after giving four effective opportunities to the defence. On the next date, i.e on 23.01.2015, CW-3 was cross-examined and thereafter giving five more

opportunities to the complainant, the evidence of the complainant was closed. This shows that previous counsel for the accused had effective opportunities to cross-examine the witnesses since both the witnesses were examined on separate dates after availing adjournments for the same. Learned Magistrate also held that the perusal of the cross-examination of the witnesses disclose it to be an elaborate one.

I have also gone through the application under Section 311 Cr.P.C. filed by the accused-petitioners. The only ground given in the application is that some material questions could not be put by the previous counsel for accused to CW-3 and CW-4 for example regarding repossession of land in question, cheque in question, regarding liability of cheque amounts, legal notice and participating/involvement of accused/applicant No.3 Rajbala etc.

It is clear from the application that counsel has been changed by the accused in this case. There is nothing on the record to show anything against the previous counsel. The statements of both CW-3 and CW-4 have been recorded. I have gone through the statements of these witnesses. These witnesses have been cross-examined in detail. A case has been build up by the defence counsel that the cheques have been given in presence of Sub-Registrar to the complainant but the amount in cash was already paid to the complainant and these cheques were given only at the asking of the complainant to show the amount in white i.e. legally notable. This is a specific defence taken by the accused while cross-examining the

witnesses admitting the issuance of cheques and giving it to the complainant at the time of execution of sale deed before the Sub-Registrar. The defence is to be proved by bringing evidence by the accused in the defence. In no way, it can be held that material question have not been asked, specially when nothing has been mentioned as to which material questions have not been asked. This is no ground to recall the witnesses for further cross-examination on engagement of a new counsel.

In view of the above discussion, I find that the orders dated 14.10.2015 passed by learned JMJC, Rohtak, dismissing the application under Section 311 Cr.P.C., are correct, as per law and do not require any interference from this Court. No illegality has been committed while passing the impugned orders.

Therefore, finding no merit in all the revision petitions, the same are dismissed.

January 25, 2016
Vgulati

(INDERJIT SINGH)
JUDGE