

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

CRR-4309-2016

Date of Decision : 19.12.2016

Rajiv Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

Present : Mr. Gurmohan Singh Bedi, Advocate,
for the petitioner.

JAISHREE THAKUR, J.(ORAL)

1. Present revision petition is being filed under Section 401 Cr.P.C. against the order dated 04.10.2016 passed by learned Addl. Sessions Judge, Ambala whereby the application filed under Section 391 Cr.P.C. to lead additional evidence during the course of the appeal, has been dismissed.

2. The petitioner herein was charge-sheeted for a commission of offence punishable under Sections 323, 406, 498A and 506 read with Section 34 IPC. After trial, the petitioner herein was held guilty and convicted by order dated 30.01.2015 and against the order of punishment dated 30.01.2015 an appeal was filed. During the pendency of the appeal, an application under Section 391 Cr.P.C. was filed on 03.06.2016 seeking permission to lead additional evidence. It was averred that during the course of trial some important documents inadvertently were not proved on the record. The petitioner applicant therein wanted to prove the following documents :-

i). Notice u/s 160 Cr.P.C. dated 21.10.2005 received by the

appellant/applicant from In-charge, Crime Against Women Cell, Ambala qua the complaint moved by Monika against appellant/applicant, his parents, brother, sister-in-law (bhabhi), sister and Tau alongwith the relevant documents by way of producing the same on record.

ii). *Certified copy of the deposition made by Monika wife of Manoj in her petition u/s 127 Cr.P.C. and certified copy of zimni order dated 15.12.2015 passed by the Court of Dr. Abdul Mazid, Id. Additional District and Sessions Judge (Family Court), Ambala by way of producing the same on record.*

iii). *Antenatal treatment record of Monika from Dr. Chander Hospitals, Adarsh Nagar, Dera Bassi, Patiala by way of summoning and examining Dr. Rupinder Kaur Chander of Dr. Chander Hospital, Dera Bassi alongwith relevant record.*

3. Reply was filed to the application seeking dismissal of the application on the ground that the said application had been moved to delay the decision of the appeal and that the documents sought to be proved had no relevance to the merits of the case.

4. Learned Appellate Court came to the conclusion that the documents sought to be proved on the record were already in the knowledge of the appellant-applicant and as such there was no need to allow the application for additional evidence. Aggrieved against the said order, instant petition has been filed.

5. I have heard learned counsel for the petitioner and have perused the case file.

6. Counsel for the applicant wants to prove the notice under Section 160 Cr.P.C. dated 21.11.2005 received by the petitioner herein from the In-charge Crime Anti Women Cell, Ambala qua the complaint moved by Monika, his wife against him, his parents, brother, sister-in-laws, sister and uncle. The petitioner had been summoned in 2005 to appear before the womens Cell on a complaint filed. This is a notice that was within the knowledge of the petitioner herein and the learned Addl. Sessions Judge rightly came to the conclusion that such notice under Section 160Cr.P.C. would have no bearing upon the merits of the case. The arguments raised that frivolous litigation had been filed against all the family members, would not be necessary since receipt of the notice by Womens Cell was much prior in time to the registration of FIR No. 218 dated 31.07.2006. Proceedings under Section 127 Cr.P.C. also would not be relevant for the purposes of the appeal since the statement as made under Section 127 Cr.P.C. was made after the decision of the trial court.

7. The learned Addl. Sessions Judge while considering each document , rightly came to the conclusion that the documents sought to be produced would have no relevance in to the case, moreover all the documents were already in possession and knowledge of the petitioner herein, therefore, there was no need to lead additional evidence.

8. Finding no infirmity in the impugned order, the instant petition is dismissed.

(JAISHREE THAKUR)

19.12.2016

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No.