

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

**CRM No.M-2656 of 2015 (O&M)
Date of Decision: December 14, 2017**

Naranga Ram

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kamal Joshi, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Rajesh Kumar, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Jaswant for quashing/setting aside the judgment dated 15.11.2014 passed by learned Sessions Judge, Panchkula, vide which the revision petition filed by respondent No.2 was allowed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that during the pendency of the case

under Section 138 of the Negotiable Instruments Act, an application under Section 311 Cr.P.C. was filed and after obtaining the reply, the same was dismissed by learned Sub Divisional Judicial Magistrate, Kalka, vide order dated 07.10.2014. A revision was filed before Court of Session and learned Sessions Judge, Panchkula, vide impugned judgment dated 15.11.2014, accepted the revision and set aside the order dated 07.10.2014.

It is settled law that revision petition is not maintainable against the order passed on the application under Section 311 Cr.P.C. The order passed on the application under Section 311 Cr.P.C. is an interlocutory order and revision is not maintainable under Section 397 Cr.P.C. against the interlocutory order. Learned Sessions Judge has no jurisdiction to set aside the order passed on the application under Section 311 Cr.P.C. as revision petition was not maintainable before him. Only proceedings under Section 482 Cr.P.C. are maintainable it being interlocutory order.

This Court in the judgment passed in ***Rohit Uppal vs. State of Punjab and others, 2017(2) RCR (Criminal) 310***, has held as under:-

*“6. From the record, I find that first of all, any order passed on "the application under Section 311 Cr.P.C., is an interlocutory order and revision is not maintainable, therefore, revision petition before learned Sessions Court was not maintainable and learned Additional Sessions Judge, Ferozepur has no jurisdiction to set aside the order dated 01.04.2014 (Annexure P-5). It is settled principle of law that quashing petition challenging the validity of interlocutory order lies before the Court under Section 482 Cr.P.C. The Hon'ble Supreme Court in **Sethuraman vs. Rajamanickam 2010 (5) R.C.R. (Criminal) 512** has held that order passed by the trial Court refusing to call the documents and rejecting the application under Section 311 Cr.P.C., is interlocutory one and, therefore, revision against the same under Section 397 (2) Cr.P.C. before High Court is not maintainable.”*

judgment, I find that the judgment dated 15.11.2014 passed by learned Sessions Judge, Panchkula, is not as per law and the same is set aside.

Therefore, finding merit in the present petition, the same is allowed.

December 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No