

**CRM-M-28690-2017(O&M)**

**Date of decision: 08.08.2017**

M/s Indian Auto Industries

...Petitioner

Versus

M/s Standard Fastners

...Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Harneet Singh Oberoi, Advocate  
for the petitioner.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

This petition has been filed under Section 482 Cr.P.C. praying for setting aside the order dated 07.06.2017 (Annexure P-4) passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Phagwara in criminal Complaint No.1957 dated 26.07.2010 under Section 138 of the Negotiable Instruments Act, District Kapurthala, vide which the application filed by the complainant under Section 311 Cr.P.C. has been dismissed.

The complaint was filed on 26.07.2010 and the petitioner has availed sufficient opportunities to lead his evidence as is clear from the documents / statements of the complainant placed on record. At the fag end of the trial, the present application was moved by the petitioner seeking permission to lead additional evidence and to produce a photocopy of the registration certificate and the partnership deed of firm M/s Indian Auto Industries. In para No. 2 of the application, it is mentioned that the said documents are already in existence. It is further submitted that the petitioner also wants to produce the cancellation report submitted by the police in case FIR No. 92 dated 04.04.2016. The trial Court dismissed the application observing that the instant application has been filed for second time by the complainant invoking the provisions of Section 311 Cr.P.C. to

lead additional evidence. The evidence of the petitioner-complainant was closed by Court vide order dated 19.04.2017 and this order was never challenged by the petitioner and only thereafter, the instant application was filed. The trial Court has further referred to the statement of CW-1 Guljeet Singh, during his cross-examination, he has admitted certain facts which are contrary to propose additional evidence and dismissed the application. Learned counsel for the petitioner has further submitted that he is not in a position to produce the original of two documents i.e. the partnership deed as well as registration certificate, yet he can be permitted to place on record a photocopy of the same. In support thereof, counsel for the petitioner has referred to the judgment of Hon'ble the Supreme Court rendered in "*Natasha Singh Vs. CBI, 213(3) RCR (criminal) 368*" wherein, it has been held that while invoking Section 311 Cr.P.C. the Court can allow an application, only if fresh evidence is produced to facilitate the just decision of the case.

I have heard learned counsel for the petitioner and gone through the record.

Admittedly, the complaint was filed in the year 2010 and at that time, both the documents i.e. registration certificate as well as partnership deed were in the knowledge of the petitioner and rather the complaint was filed on the basis of these two documents and therefore the trial Court has rightly held that the application under Section 311 Cr.P.C. in this regard cannot be allowed. However, so far as the prayer of the petitioner to place on record the report filed under Section 173 Cr.P.C. regarding acceptance of the cancellation report in case FIR No. 92 dated 04.04.2016 under Sections 465, 468, 471, 477-A, 420, 120-B and 34 IPC is concerned, the same can be

allowed in view of Natasha Singh's judgment (Supra) as it comes to the notice of the petitioner for the first time on 24.04.2017 i.e. after the cross-examination of the petitioner was already over on 25.04.2016. Therefore, this petition is partly dismissed with regard to production of the documents i.e. partnership deed as well as registration certificate. However, the trial Court will allow the petitioner to place on record the cancellation report in FIR No. 92, dated 04.04.2016 subject to payment of cost of Rs.10,000/- be deposited in District Legal Services Authority.

Disposed of.

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

**08.08.2017**

Hemlata

Whether speaking/reasoned  
Whether reportable

Yes / No  
Yes / No