

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

**CRM No.M-37492 of 2016 (O&M)
Date of Decision: December 08, 2017**

Satbir

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navmohit Singh, Advocate
for the petitioner.

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

Mr.N.S.Shekhawat, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents for quashing the order dated 14.10.2016 passed by learned ACJM, Narnaul, in criminal case No.10 of 2013, whereby the application under Section 311 Cr.P.C. was rejected in case FIR no.257 dated 12.10.2012 under Sections 148,149, 323, 341 and 506 IPC registered at Police Station Narnaul.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.2 and 3 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 challan was presented by the police in case FIR no.257 dated 12.10.2012 under Sections 148,149, 323, 341 and 506 IPC. During the trial, an application under Section 311 Cr.P.C. was filed. It is submitted by learned APP for the State that complainant-injured was medically treated at PGIMS Rohtak and he was admitted in PGIMS Rohtak from 10.10.2012 to 11.10.2012. However, the Investigating Officer neither collected the x-ray reports, bed head tickets and the report of treatment of concerned doctor nor made the doctor as a witness in the present case. As such, Dr.Tapan, who medically treated the complainant as well as the Medical Superintendent of PGIMS Rohtak, along with relevant record be summoned as witnesses in the present case.

Learned ACJM, Narnaul, vide impugned order dated 14.10.2016, dismissed the application by stating that this evidence was in the knowledge of the complainant and prosecution has also already closed the evidence. Earlier also, an application under Section 319 Cr.P.C. was dismissed by this Court and complainant is delaying the disposal of the case.

It is settled law that application under Section 311 Cr.P.C. can be filed at any stage of the case and it cannot be dismissed on above grounds. Similarly, the fact that the evidence was already in the knowledge of the complainant, is also no ground to dismiss the application. As per Section 311 Cr.P.C., if it appears to the Court that evidence is essential for the just decision of the case, the Court has to summon those witnesses. In the present case, the medical record i.e. X-ray report, bed head tickets etc. are necessary and essential for the just decision of the case. Therefore,

learned Court below has wrongly dismissed the application. This is also no

ground to dismiss the application under Section 311 Cr.P.C. that earlier application under Section 319 Cr.P.C. has already been dismissed.

In view of the above discussion, I find that the impugned order dated 14.10.2016 passed by learned ACJM, Narnaul, is not as per law and the same is set aside. The application under Section 311 Cr.P.C. stands allowed. However, it is made clear that learned Court below may summon the Clerk of PGIMS Rohtak instead of Medical Superintendent, if record etc. is only to be produced.

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

December 08, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No