

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-38821 of 2017

.....

Date of decision:12.10.2017

Aman Chhabra

.....Petitioner

v.

Wah Holidays Pvt. Ltd.

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Harinder Singh Aujla, Advocate for the petitioner.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 8.9.2017 (Annexure-P12) passed by learned Additional District Judge, Gurugram in case titled “Aman Chhabra Vs. Wah Holidays Pvt. Ltd. bearing criminal revision No.15 of 22.5.2017 passed by learned Judicial Magistrate Ist Class, Gurugram, in case titled “Wah Holidays Vs. Aman Chhabra” bearing case No.2539 of 2016 allowing the application filed under Section 311 Cr.P.C. of respondent/complainant was not set aside.

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

From the record, I find that during the pendency of the trial, the complainant moved an application under Section 311 Cr.P.C. as he wanted to examine ICUICI Bank through its Manager/concerned official, HDFC Bank through its Manager/concerned official and Mohit Piplani as

necessary witnesses to prove his complaint as the said witnesses had to depose about the transactions between the complainant and the accused. The witnesses to be examined were necessary for proper adjudication to the present case.

The learned Judicial Magistrate Ist Class, Gurugram, vide the impugned order dated 1.4.2017 (Annexure-P.9) allowed the application by holding that these witnesses were material witnesses to depose about the material facts of the case. Aggrieved from this order, the present petitioner-accused filed the revision petition, which was also dismissed by the learned Additional Sessions Judge, Gurugram, vide order dated 8.9.2017 (Annexure-P.1). The petitioner-accused has now filed this petition under Section 482 Cr.P.C. for quashing of the impugned order dated 8.9.2017 passed by the learned Additional Sessions Judge, Gurugram.

Firstly, from the record, I find that revision petition is not maintainable as the order passed on an application filed under Section 311 Cr.P.C. is an interlocutory order and no revision petition is maintainable. Only petition for quashing is maintainable which the accused has now filed before this Court.

I have gone through the impugned order passed by the learned Judicial Magistrate Ist Class, Gurugram, for accepting the application. This order has been passed as per law. No illegality has been committed by the learned Judicial Magistrate Ist Class, Gurugram, for accepting the application and summoning the witnesses.

At the time of arguments, learned counsel for the petitioner has

not contested the application qua summoning of the concerned officials of ICICI Bank and HDFC Bank. He argued that witness Mohit Piplani should not be summoned as it will amount to fill-up the lacuna. A perusal of the order shows that the said Mohit Piplani is representative of the complainant-Company. During the trial, one another person was substituted in place of Mohit Piplani. Now another person Mr. Deepak, who is working as Director of complainant company has been substituted in his place. Now the complainant wants to examine Mohit Piplani, who has also been examined in the trial Court to produce the evidence on record which is in his possession being the Sales Head as also he knows the facts personally. As the statement of Mohit Piplani is material evidence and necessary for the just decision of the case, therefore, he can be summoned under Section 311 Cr.P.C. He is also shown in the list of witnesses and rather, the complaint was filed by him being the representative of the company. Therefore, in these circumstances, the order dated 1.4.2017 passed by the learned Judicial Magistrate Ist Class, Gurugram, is correct as per law and does not require any interference from this Court.

Therefore, finding no merit in this petition, the same is dismissed.

October 12, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No