

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

**CRM No.M-8137 of 2016 (O&M)
Date of Decision: February 23, 2017**

Sanjeev Chadha and another

...Petitioners

VERSUS

M/s Soreya Engineers

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Abhinav Gupta, Advocate
for the petitioners.

Mr.R.N.Lohan, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of order dated 19.02.2016 whereby the application under Section 311 Cr.P.C. for leading additional evidence was allowed.

This Court vide order dated 28.03.2016, issued notice of motion to the respondent only on the summoning of Record Keeper of ICL HI-TECH Educational Society, who is Clerk of the petitioners-accused. Learned counsel for the respondent appeared and contested the petition.

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

From the record, I find that an application was filed by the complainant under Section 311 Cr.P.C. during the pendency of the trial

before the Court and learned trial Court vide order dated 19.02.2016, allowed the application. Aggrieved from the above-said order, present petition has been filed.

The perusal of the record shows that a complaint was filed against the accused persons under Section 138 of the Negotiable Instruments Act. The complainant had filed list of witnesses while filing the complaint. It is held by learned JMIC, Panchkula that the accused have taken the defence through cross-examination of the complainant witnesses that the complainant has prepared a ledger in collusion with Sunil Rana, C.A. and in order to prove the ledger account and mode of payment, it is necessary and expedient that the complainant be allowed to examine the witnesses to prove the legal liability of the accused i.e. record keeper, ICL HI-TEC Education Society, keeping the record of ledger account of M/s Soreya Engineers for the period from 01.01.2007 to 31.03.2012 and also record of resolutions dated 03.10.2011, 14.12.2011, memorandum of understanding dated 09.11.2011 etc., concerned Clerk from Indian Bank, concerned Clerk from Bank of Maharashtra and Sunil Rana, Chartered Accountant.

This Court while issuing notice of motion, found the order correct qua summoning of concerned Clerks from Indian Bank, Bank of Maharashtra and Chartered Accountant and notice was issued qua record keeper, ICL HI-TECH Education Society.

Learned Magistrate after taking the reply and hearing the counsel for the parties, allowed the application by holding that Section 311 Cr.P.C. is very wide in terms. A court can in the interest of justice, at any stage, permit leading of evidence and the evidence sought to be led through

the instant application in question is quite germane to the controversy. It is also in the order that accused has not been able to show any prejudice that will be caused to him in case, it is allowed.

From the perusal of the impugned order, I find that no illegality has been committed by learned Magistrate while accepting the application under Section 311 Cr.P.C. The case is stated to have been fixed for complainant's evidence and it has not been concluded yet. Therefore, there is no question of filling up of lacuna. Otherwise also, the record keeper is to produce the record of account of M/s Soreya Engineers and one Memorandum of Understanding. The controversy qua the correctness of the ledger etc. is disputed as per the cross-examination of the defence, therefore, this evidence is necessary for the just decision of the case. In no way, calling of the record keeper amounts to calling the other party as a witness. This witness record keeper, is summoned only for the purpose of producing and proving the record etc.

As the evidence in question is necessary for the just decision of the case, therefore, no illegality has been committed by learned JMJC, Panchkula, while accepting the application under Section 311 Cr.P.C. vide order dated 19.02.2016.

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

February 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No