

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

234

CRM-M-8947-2016.

Date of Decision: 02.12.2017.

Beant Singh and others

....Petitioners.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. H.P.S. Ghuman, Advocate for the petitioners.

Mr. Rana Harjasdeep Singh, Assistant Advocate General,
Punjab.

Ramendra Jain, J.(Oral)

Through the instant petition under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.'), prayer has been made for setting aside the order dated 15.01.2016 (Annexure-P1) passed by the Judicial Magistrate Ist Class, Nabha, in case F.I.R. No.11 dated 11.03.2015 registered under Sections 452, 323 read with Section 34 of the Indian Penal Code (for short, 'IPC') at Police Station Bhadson, allowing the application of respondent No.2 for placing on record certain documents.

Learned counsel for the petitioners contends that the trial Court failed to appreciate that under the provisions of Section 311 Cr.P.C., no document can be produced by the complainant or the prosecution, rather relevant provision for the same is Section 242(2) Cr.P.C., therefore, the trial Court ought not to have allowed the application of respondent No.2 under

Section 311 Cr.P.C. for production of certain documents. In support of his arguments, learned counsel for the petitioners placed reliance upon the judgment of Allahabad High Court in **Tomaso Bruno and others vs. State of U.P., 2014(12) R.C.R. (Criminal) 839.**

On the other hand, learned counsel for the respondent-State has vehemently opposed the aforesaid contention submitting that there is no bar under Section 311 Cr.P.C. for the Court to take on record any document upon the application of the prosecution for effective adjudication of the case.

I have given anxious consideration to the submissions made by both the sides.

Perusal of application moved by respondent No.2 under Section 311 Cr.P.C. shows that two folds prayers were made in it, i.e. for production of certain documents on record and the second one to prove the same as per law, therefore, in the considered opinion of this Court, the application of respondent No.2 under Section 311 Cr.P.C. was not simpliciter for production of certain documents, rather prayer was also made therein for proving the same in accordance with law, of course, which would have been proved by examining some witnesses i.e. their author/scribe.

The provision under Section 242(2) Cr.P.C. envisages that upon an application of the prosecution, the Magistrate may issue a summon to any of the witness directing him to appear or produce any document or other thing. In other words, this provision also speaks about summoning of a witness directing him to attend or produce any document or other things. Hence, the provisions of Section 242(2) Cr.P.C. are not repugnant to Section 311 Cr.P.C., rather purpose of both the sections is the same for imparting

justice or to adjudicate the matter in an effective manner. Even otherwise, a person cannot be non suited on technical grounds. The motive should always be to impart justice. Therefore, it hardly makes any difference if respondent No.2 did not get typed in the head of the application the words “Section 242(2) Cr.P.C.”.

The facts and circumstances of the citation relied upon by learned counsel for the petitioner are not identical to the facts of the instant case inasmuch as in that case, counsel for the appellants had argued that the trial Court was duty bound to summon the CCTV camera footage under Section 311 Cr.P.C., which was negated while reproducing the provisions of Section 233 Cr.P.C. The provisions of Section 242(2) Cr.P.C. have not been discussed in the said citation, therefore, no benefit of the same can be given to the petitioner.

The instant case is an injury case in which respondent No.2 has suffered injuries at the hands of petitioners No.1 to 3 and thus, the original X-ray, X-ray reports, discharge slip, medical opinion, discharge summary card and other necessary bills of the hospital were very much necessary to be proved by the prosecution to arrive at a just conclusion.

In view of discussion above, I find no illegality or perversity in the impugned order allowing respondent No.2 to produce the aforesaid documents. Consequently, the impugned order is affirmed and the petition is dismissed. The trial Court is directed to proceed further with the trial in accordance with law.

(RAMENDRA JAIN)
JUDGE

02.12.2017
jitender sharma