

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

CRR-1000-2017

Date of decision-25.04.2017

M/S Mahadev Pharmaceuticals

...Petitioner(s)

Vs.

M/S Mahindru Print 'N' Graphics

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajiv Dhawan, Advocate for the petitioner(s).

JITENDRA CHAUHAN, J. (Oral)

This revision petition is directed against the order dated 06.01.2017, (Annexure P-1) passed by learned Additional Sessions Judge, Chandigarh vide which two applications filed by the petitioner, the first under Section 391 of Criminal Procedure Code (in short 'Cr.P.C') for leading additional evidence and the second application under Section 311 Cr.P.C for further cross-examination were dismissed.

The grievance of the petitioner is that the Court of Additional Sessions Judge, Chandigarh erred in setting aside the well reasoned order dated 06.01.2017 passed by Judicial Magistrate First Class, Chandigarh. The impugned order has been passed by the learned appellate Court without appreciating the fact that the documents sought to be produced on record as additional evidence are necessary for the just decision of the case. A great prejudice would be caused to him, in case the petitioner is not allowed to place on record said documents.

I have heard learned counsel for the petitioner and have gone

through the case file.

The petitioner stands convicted for commission of an offence under Section 138 of the Negotiable Instruments Act. Feeling aggrieved, he filed an appeal before the learned Additional Sessions Judge Chandigarh. During the pendency of the said appeal, petitioner moved these applications under Section 391 and 311 of the Criminal Procedure Code. The petitioner wants to place on record the following records as additional evidence:-

1. Order by the Court of Sh.Parinder Singh, JMIC, Chandigarh dated 12.08.2013 settling the case between the same parties.
2. Legal notice dated 25.10.2012 sent by the respondent to M/s Mahadev Pharmaceuticals.
3. Account statement of Punjab National Bank pertaining to the account of M/s Mahadev Pharmaceuticals from 01.03.2013 to 31.10.2012.
4. Legal notice dated 12.09.2012 sent by the respondent to M/s Mahadev Pharmaceuticals.
5. Account statement of Axis Bank pertaining to the account of M/s Mahadev Pharmaceuticals from 01.01.2012 to 15.01.2012.

It is evident from the record that the petitioner was afforded sufficient opportunity to cross examine CW-1 Ghanish Kumar. The witness was examined at length and records were also summoned during the course of cross-examination. However, the petitioner again sought to further cross-examine the said witness without divulging the material questions which could not be put to him earlier and without explaining as to how the documents were relevant to the case. Even as per record, the said documents

were said to be in the knowledge of the petitioner at the time of evidence, however, he chose not to bring them on record at the relevant time. Additional evidence can only be led if the document sought to be produced could not be produced at the time of trial despite due diligence.

In view of the above, this Court feels that the present applications are nothing else but an effort to fill up the lacunae in the matter. Learned Court below has passed a reasoned order while dismissing the application of the accused/petitioner under Section 391 and 311 of Cr.P.C.

This Court feels that no cause of action has arisen in favour of the petitioner to invoke the inherent jurisdiction of this Court. Consequently, the present petition is dismissed.

(JITENDRA CHAUHAN)
JUDGE

April 25, 2017

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No