

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

**CRR No.1137 of 2017(O&M)
Date of Decision: 28.03.2017**

Virender Singh

.....Petitioner

Versus

M/s Excellent Services and another

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Rakesh Gupta, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 21.02.2017 passed by Judicial Magistrate First Class, Gurgaon, vide which an application under Section 311 Cr.P.C filed by the petitioner was dismissed.

[2]. The application in question came to be filed on the ground that during cross examination, the accused has admitted that he had filed reply to the legal notice and also stated that he had no liability towards the complainant, but admitted the liability in the reply to the legal notice. The said reply to the legal notice could not be brought forward by the complainant and the same was required to be exhibited in evidence. The statement of the complainant in a criminal complaint titled "Karambir Vs. Excellent" which was dismissed as withdrawn by the Court was also sought to be brought on record.

[3]. The application was contested by the respondent-

accused on the premise that the accused never admitted his liability.

[4]. The factum of reply could not be pleaded by the complainant, nor any material was brought on record. The complainant never placed on record the said alleged reply to the legal notice. The accused-respondent never admitted the contention of the complainant that he had sent reply to the legal notice issued on behalf of the complainant. There was no foundation made by the complainant in the pleadings of the complaint. Placing of reply on record or getting the same exhibited cannot dispense with the proof of execution. The document itself is not *per se* admissible and the same being a private document cannot be exhibited in the manner as prayed by the complainant. Similarly, the statement of the complainant in a complaint which was dismissed by the Court is also not relevant in the present context as the same has no bearing on the merits of the case. The case is already at the stage of final arguments and at this stage, even though the Court has power to summon any document if in the opinion of the Court that document is useful in facilitating the Court to arrive at just and effective conclusion of the case. Since there are no pleadings of the document which is sought to be exhibited on record, nor production of the same would advance the case of the

complainant as the execution of the document has not been admitted by the accused-respondent.

[5]. From the above facts, it can be appreciated that the production of such document at this stage would be of no consequence. The present revision petition is accordingly dismissed.

28.03.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No