

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

**CRR No.2121 of 2017 (O&M)
Date of Decision: July 05, 2017**

Sadhan Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.S.Dhaliwal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sadhan Singh against respondent State of Haryana, challenging the impugned order dated 03.05.2017 passed by learned Sessions Judge, Kurukshetra, vide which the application filed by the petitioner under Section 391 Cr.P.C. for leading additional evidence was dismissed.

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 appeal before the Court of Session against the judgment of learned JMJC, Kurukshetra, in which the present petitioner was held guilty for the commission of the offence under Sections 279, 337 and 338 IPC, an application under Section 391 Cr.P.C. for leading additional evidence has

been filed. The petitioner wanted to lead additional evidence by producing

i.e. Award of Motor Accident Claims Tribunal, Kurukshetra dated 01.12.2012 etc.

Learned Sessions Judge, Kurukshetra vide impugned order dated 03.05.2017, dismissed the application and held that the judgment passed by learned MACT is not relevant. The findings are to be given regarding the negligence and guilt of the accused on the basis of the evidence produced before learned Magistrate and not before learned MACT.

I have gone through the impugned order, which is correct, as per law and while passing the impugned order, no illegality has been committed by learned Sessions Judge, Kurukshetra.

Section 391 Cr.P.C. provides as under:-

“391. Appellate Court may take further evidence or direct it to be taken.

(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.]

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.”

The perusal of the record shows that the Award which the petitioner wants to produce in evidence during the pendency of the appeal, cannot be held as a necessary evidence. The Award passed by learned

MACT is not binding on the criminal Court nor relevant while deciding the

appeal.

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

July 05, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No