

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

Sr. No.127

**CRM-M-1685-2018
Date of decision : 17.01.2018**

Parveen Kumar

..... Petitioner

VERSUS

Amrit Lal

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

This petition has been filed for quashing of order dated 01.04.2017 (Annexure P-6), whereby, the trial Court has allowed an application under Section 311 Cr.P.C. filed by the complainant.

2. Learned counsel for the petitioner submits that the application has been filed at the stage when the case was ripe for arguments even though the agreement to sell dated 30.06.2013, was placed on record by the petitioner at the time of cross-examination of the complainant and three years have elapsed since that date. He submits that the impugned order amounts to permitting the complainant to fill up the lacuna in this case, which is impermissible. He also submits that the Clerk of Allahabad Bank summoned by virtue of the impugned order, has already been examined as DW-4. He has placed reliance upon judgment of the Hon'ble Supreme Court of India in **'Rajaram Prasad Yadav Vs. State of Bihar and another, 2013(3) RCR (Crl.) 726'** to contend that re-examination of a witness at a belated stage, is not permissible and that the power under Section 311 Cr.P.C., cannot be utilized to fill up the lacuna. He also relies

upon a judgment of a Single Bench of this Court in **‘Sahab Singh @ Sabhi Vs. Dharamvir (CRM-M-4649-2014 decided on 24.03.2015)’** to contend that the power under Section 311 Cr.P.C. is to be invoked only if it is essential for the just decision of the case. Reliance has also been placed upon another Single Bench judgment of this Court in **‘A.K. Malhotra Vs. H.K. Dass, 2008(4) RCR (CrI.) 65’** to contend that the power under Section 311 Cr.P.C. will be invoked only if it is essential to reach at just conclusion.

3. Having heard learned counsel for the petitioner, I am of the view that the impugned order does not require to be interfered with as after repeatedly questioning the learned counsel for the petitioner regarding the prejudice being caused to him by the impugned order, he has not been able to submit any satisfactory reply. The law laid down in the aforementioned judgments, is not in dispute. However, the said judgments are not attracted to the facts and circumstances of the present case.

4. In view of the above, the present petition is dismissed as I do not find any error in the impugned order.

(SUDHIR MITTAL)
JUDGE

January 17, 2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No