

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

**Criminal Misc. No.M-33589 of 2018 (O&M)
Date of Decision: September 05, 2018**

Harbans Singh

.....PETITIONER(s).

VERSUS

M/s Jandiali Rice Mills and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

This is petition against the order dated 20.04.2018 whereby the application of the respondent-complainant under Section 311 Code of Criminal Procedure (for short-Cr.P.C.) was allowed and complainant was permitted to lead additional evidence.

Perusal of the application Annexure P-3 shows that complainant had sought permission to place on record certain documents, which find mentioned in para 4 of the application, which is reproduced as follows:-

“That inadvertently, the applicant/Complainant forget to place on record documents which is VAT certified issued by the concerned Department after receiving the payment with regard to sale and purchase of Bardana, the applicant/complainant wants to place on record the income tax return with regard to the Firm Jandiali Rice Mills along with balance sheet, duly attested by the

Chartered Accountant. It is pertinent to mention here that the applicant/Complainant could not place on record the income tax return at earlier stage as the applicant/Complainant had to file the income tax at due time i.e. After the filing of the complaint and after the filing of the affidavit. Likewise, the applicant/Complainant wants to tender the debt, credit, statement with regard to the accused, Ledger, document reflecting sale of Bardana, duly attested by the Chartered Accountant. All the above said documents are duly required and essential for just and proper decision of the case and would held the Hon'ble Court to decide the complainant on merits. In case, the application of the applicant/Complainant will be disallowed, the applicant/Complainant will suffer irreparable loss and injury which cannot be compensated in any manner and there will be failure of justice on account of inadvertent mistake on the part of the applicant/Complainant.”

Learned trial Court while allowing the application took note of the fact that complainant has already been cross-examined but found the documents sought to be produced as material and the complainant was recalled for tendering these documents subject to payment of ₹500/- as costs. The petitioner was allowed opportunity to cross-examine the complainant qua the aforesaid documents.

Learned counsel for the petitioner has argued that when complainant Lakhbir Singh appeared as CW1, he was inquired about documents sought to be produced as additional documents but he denied the same. Now, he has no right to produce these documents to fill up the lacuna.

to grant permission to lead any evidence or examine witness, which it finds material to decide the case on merits. The petitioner has sought information from the complainant about the documents in his possession including the documents sought to be produced. Even if, these documents could not be produced at earlier stage, the same being documents which were either issued by Government or submitted to the Government cannot be fabricated at this stage.

Keeping in view the nature of the documents and relevance of the same, trial Court has committed no error while allowing the application of complainant and permitting the respondent-complainant to produce these documents. I find no merits in this petition.

Dismissed.

September 05, 2018

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No