

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

(1) Criminal Misc. No. M-34327 of 2016 (O&M)
Date of Decision: September 25, 2018

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Yogesh Didwania

....RESPONDENT(s).

(2) Criminal Misc. No. M-34332 of 2016 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Yogesh Didwania

....RESPONDENT(s)

(3) Criminal Misc. No. M-35130 of 2016 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Yogesh Didwania

....RESPONDENT(s).

(4) Criminal Misc. No. M-43058 of 2017 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Deepika Didwania

....RESPONDENT(s).

(5) Criminal Misc. No. M-43154 of 2017 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Deepika Didwania

....RESPONDENT(s).

(6) Criminal Misc. No. M-43100 of 2017 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Deepika Didwania

....RESPONDENT(s).

(7) Criminal Misc. No. M-31249 of 2017 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Yogesh Didwania

....RESPONDENT(s).

(8) Criminal Misc. No. M-31564 of 2016 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Santosh Didwania

....RESPONDENT(s).

(9) Criminal Misc. No. M-33497 of 2016 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Santosh Didwania

....RESPONDENT(s).

(10) Criminal Misc. No. M-34052 of 2016 (O&M)

Sudhir Nagar

.....PETITIONER(s).

VERSUS

Yogesh Didwania

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner (s).

Mr. N.S. Shekhawat, Advocate
for the respondent (s).

SURINDER GUPTA, J.

All the aforementioned 10 petitions have been filed under Section 482 Code of Criminal Procedure (for short-Cr.P.C.) seeking quashing of impugned order (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Faridabad in all the 10 complaints filed by petitioner-complainant, whereby his application under Section 311 Cr.P.C. was partly allowed and partly rejected.

Heard.

Learned counsel for the petitioner submits that case is still at initial stage. Evidence of complainant has not even started but the application under Section 311 Cr.P.C. was given mistakenly. The petitioner will move an application under Section 254 Cr.P.C. for summoning of evidence as required by him and the Court may decide the relevance of the witnesses, if any, not being swayed by the observations in the order under challenge.

Learned counsel for the respondent(s) submits that petitioner had already supplied list of witnesses with the complaint(s) and nothing more is required to prove his case.

I find no merit in submission of learned counsel for respondent as it is for the complainant to see as to which witnesses he has to examine to prove his case. Petitioner-complainant instead of giving list of witnesses moved application under Section 311 Cr.P.C. to summon witness including those, who were already cited in the list filed with complaint. Section 311

Cr.P.C. authorises the Court to summon, examine, recall or re-examine any such person, if his evidence appears to be essential for the just decision of the case. As the petitioner has not even started leading evidence, the stage of filing the application under Section 311 Cr.P.C. had not arisen.

Keeping in view the above facts, request of learned counsel for the petitioner is accepted.

All the above referred petitions are disposed of with liberty to the petitioner to file application(s) for summoning of witnesses. On filing of such application(s), learned trial Court may see the relevance of the witnesses, summon or decline to summon any witness in accordance with law. However, while passing such order, trial Court will not be guided or swayed by the observations made in the impugned order.

September 25, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***