

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

Criminal Misc.No.M-35897 of 2015 (O&M)

Date of Decision : 24.01.2018

Daljit Singh

..... Petitioner

Versus

Sakal Dev Yadav

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Vijay Lath, Advocate
for the petitioner.

Mr. S.K.Doabia, Advocate
for the respondent.

RAJ SHEKHAR ATTRI, J. (Oral)

Petitioner/complainant has challenged the order dated 17.09.2015, passed by the learned Sub Divisional Judicial Magistrate, Anandpur Sahib vide which application under Section 311 Cr.P.C. to adduce additional evidence of Bank statement of account of the complainant-petitioner was dismissed.

Briefly stated, a complaint filed by complainant-petitioner under Section 138 of the Negotiable Instruments Act is pending. In that case, the complainant moved an application under Section 311 Cr.P.C. for placing on record certified copy of his bank account. The said application was contested and the same was declined solely on the ground that complainant has not pleaded in his complaint for withdrawing the amount from the bank account.

I have heard learned counsel for the parties and have gone through the record.

The said application was under Section 311 Cr.P.C. which provide ample powers to the Court to receive additional evidence during the course of trial which reads as under:-

"Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case. "

In the instant case, complainant wants to produce on record only certified copy of his bank statement which is admissible in law. It will not cause any prejudice to the defence of the accused.

To the mind of this Court, the production of bank statement is essential for just decision of the case and also in the interest of justice.

In this view of the matter, the impugned order suffers from irregularity and infirmity and is not sustainable.

Consequently, the instant petition stands allowed and the impugned order is set aside. The trial Court is directed to allow the complainant to place on record the certified copy of his bank account statement and afford opportunity to place on record the same in accordance with law.

24.01.2018
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(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No