

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

240

CRM-M-42936-2016 (O&M)

Date of Decision: March 22, 2018

Ravinder and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Kunal Mulwani, Advocate and
Mr. Mayank Aggarwal, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Udit Garg, Advocate
for the respondents No.3 and 4.

Sudhir Mittal, J. (Oral)

The petitioners seek quashing of order dated 17.10.2016 (Annexure P-4), whereby the application under section 311 Cr.P.C. has been rejected. It is the contention of learned counsel for the petitioners that the complainant and the accused in the case are brothers and their family members. On account of family differences, the fight broke out between the parties resulting in the registration of an FIR, out of which present proceedings have emanated. Subsequently, on 15.09.2015, a compromise had been reached between the parties and this Court was approached vide **CRM-M-34176-2015**, which was dismissed as withdrawn vide order dated 05.11.2015, with liberty to raise all the pleas before the competent

Court at an appropriate stage. Thereafter, the present application was moved on 08.12.2015, but the same was rejected by passing of non-speaking order.

2. Learned State counsel submits that powers under section 311 Cr.P.C. can be exercised only when the Court requires any further evidence. Such power will not be invoked at the whims and fancies of the parties to the litigation. Thus, the learned trial Court was justified in passing the impugned order, as the prosecution witnesses have been cross-examined at length earlier in point of time and no sufficient ground was made out in the application for recalling of the said witnesses.

3. Sh. Udit Garg, Advocate appearing on behalf of respondents No.3 and 4, however, has no objection in case the petition is allowed and impugned order is quashed.

4. It is apparent that a compromise has been reached between the parties to the litigation. The parties are very closely related being blood brothers and their family members. The dispute arose on account of personal issues and the same has been sorted out between them. The factum of compromise was pleaded in the application under section 311 Cr.P.C.

5. Under these circumstances, the law does not require prosecution of persons, who are not criminals and no crime against the society as such has been committed. Section 311 Cr.P.C. gives vast powers to the Court to permit additional evidence at any stage of the trial, if it would assist the Court in coming to the just decision of the case. In my opinion, settlement of dispute between members of the family related by blood, affords adequate reasons for exercise of discretion by the learned trial Court under section 311 Cr.P.C. Criminal law has been enacted for the purpose of promoting peace in society and not for creating disharmony.

6. For the reasons above, the learned trial Court was in error in

dismissing the application under section 311 Cr.P.C. Thus, the instant petition is allowed; the impugned order dated 17.10.2016, is set aside and the petitioners are permitted to recall and examine the witnesses, as sought by way of application under section 311 Cr.P.C.

March 22, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No