

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

Crl. Misc. M-6424 of 2018 (O&M)
Date of Decision: February 15, 2018

Jaskaran Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Tejinder Pal Singh, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 25.01.2018 passed by the trial court in case FIR No.69 dated 12.07.2015, under Sections 323, 316, 506, 148, 149 of Indian Penal Code (later on offence under Section 316 IPC was deleted and Section 313 IPC was added), registered at Police Station Kathgarh, District Shaheed Bhagat Singh Nagar, vide which application under Section 311 Cr.P.C. filed by respondent No.2 to lead additional evidence has been allowed.

2. In brief, the facts of the case are that the aforesaid FIR came to be lodged at the instance of complainant-respondent No.2 with the allegations that on 01.07.2015 she was given beatings by the petitioner herein along with Jai Tegh, Mohan Singh, Harjinder Kaur and Shingara

Singh. It has been further alleged that Harjinder Kaur caught hold of complainant whereas, Mohan Singh gave fist blow on her abdomen and due to the injuries inflicted by the accused persons, she suffered a miscarriage.

3. The investigating agency, after completing the investigation, presented the challan and accused persons were charge-sheeted under Sections 313, 323, 506, 148, 149 of Indian Penal Code. After recording the prosecution evidence, statement of the accused persons were recorded under Section 313 Cr.P.C. and the case was fixed for defence evidence and arguments. However, complainant-respondent No.2 preferred an application under Section 311 Cr.P.C. seeking permission to examine Dr. Rajneet of Navnoor Hospital by way of additional evidence, which application came to be allowed by the impugned order dated 25.01.2018. Being aggrieved against the said order, the petitioner-accused has preferred the instant petition.

4. Mr. Tejinder Pal Singh, learned counsel for the petitioner argues that the only objective of respondent No.2 for moving this application is to delay the disposal of the case and cause harassment and humiliation to the petitioner. It is submitted that the additional evidence sought to be produced would not serve any purpose except for wasting precious time of the court. It is contended that there is no reasonable explanation that why those documents were not tendered by respondent No.2 in her evidence at the time of making statement before the investigating agency. It is also argued that the impugned order has been passed by the trial court in a mechanical manner.

5. I have heard learned counsel for the petitioner, apart from

perusing the record of the case.

6. The trial court, while allowing the application moved by complainant-respondent No.2 under Section 311 Cr.P.C., observed as under;

“Section 311 Cr.P.C. provides that court may at any stage of any inquiry, trial or other proceeding, summon any person as a witness or recall and re-examine any person already examined, if recalling or examination of such person appears to be essential for the just decision of the case. In case in hand prosecution has moved an application for examination of Dr. Rajneet, Navnoor Hospital, Balachaur to produce record with regard to pregnancy of complainant. Complainant has specifically stated during her statement in the Court that she was earlier examined by doctor Rajneet of Navnoor Hospital and it is the case of prosecution that complainant was attacked by the juveniles and their companions when she was pregnant. In such an eventuality examination of Dr. Rajneet of Navnoor Hospital has become essential. Whether record to be produced is genuine or not, is a matter of fact which cannot be considered at this stage. At this stage, the only fact which is to be considered is evidence or witness to be produced by the prosecution is required for just and proper conclusion of the case or not. More so, no prejudice is going to be caused to the juveniles as they will get an opportunity to cross examine the said witness.

Therefore, in the interest of justice for just and proper adjudication of the matter in hand, application filed by prosecution under Section 311 Cr.P.C. stands allowed.....”

7. Section 311 of Cr.P.C. consists of two parts i.e. (i) giving a

discretion to the court to examine the witness at any stage, and (ii) the mandatory portion which compels the court to examine a witness is if his evidence appears to be essential for the just decision of the court. Object of this section is to enable the court to arrive at the truth, irrespective of the fact that the prosecution or the defence has failed to produce some evidence which is necessary for a just and proper disposal of the case. This power should be exercised, if the court feels that there is necessity to act in terms of Section 311 Cr.P.C. to sub-serve the cause of justice. It should be done with an object of getting the evidence in aid of a just decision and to uphold the truth.

8. In the case in hand, in the FIR, there are specific allegations made by complainant-respondent No.2 that she suffered miscarriage due to injuries inflicted by the accused persons on her abdomen. Under these circumstances, this court is of the considered view that the witness sought to be examined is necessary .

9. In view of the foregoing discussion, this court does not find any infirmity or illegality in the impugned order so passed. Accordingly, the petition in hand stand dismissed, being devoid of any merits.

February 15, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No