

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

**CRM-M No.8727 of 2018
Decided on: 28.02.2018**

Umrao Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Shashi Kant Gupta, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting-aside the orders dated 07.12.2017 (Annexure P4) passed by the trial Court vide which the application filed by the petitioner/complainant under Section 311 of the Code of Criminal Procedure (in short 'Cr.P.C.') was dismissed and the order dated 08.02.2018 (Annexure P6) vide which the revision petition filed by the petitioner against the order dated 07.12.2017 was dismissed by the Lower Appellate Court.

Brief facts of the case are that FIR No.190 dated 21.05.2011 under Sections 323, 325 read with Section 34 of the Indian Penal Code (in short 'IPC') was got registered at Police Station Mohindergarh and thereafter the report under Section 173 Cr.P.C. was submitted before the trial Court on 09.01.2013 (Annexure P1). Along with the report, the police has submitted certain documents as well as list of witnesses. Thereafter, the trial Court framed charges against respondents/accused persons under Sections 323, 325 read with Section 34 IPC and the prosecution concluded its evidence.

After framing of the charge on 16.01.2014, the petitioner moved an application for alteration of charge and to frame additional charge under Sections 427, 452 and 436 IPC and the said application was dismissed vide order dated 16.01.2014 and thereafter, the petitioner/complainant did not prefer any appeal or revision challenging the aforesaid order and the accused persons are facing the trial under Sections 323, 325 read with Section 34 IPC.

After a period of more than 4½ years, the petitioner filed an application under Section 311 Cr.P.C. on 03.11.2017. It is prayed in that application that the petitioner want to produce on record certain documents i.e. Occurrence Book Appendices 4 dated 18.05.2011 time 23:37 inward entry of Shri Umrao Singh Saini and receipt of 49 dated 16.04.2015 of book No.188 issued under Form G 8 Rule 5 of Municipal Committee, fire charge fees, Enquiry report of Kurda Ram, D.S.P., Enquiry report of Mabir Singh D.S.P. and Enquiry report of Omkar, D.S.P. It is stated in the application that all these documents were not attached with the report under Section 173 Cr.P.C. and these are necessary documents for the just and proper decision of the trial. The respondents/accused persons filed reply to the said application and contested the same.

The trial Court vide its impugned order dated 07.12.2017 dismissed the application holding that when the earlier application was filed by the complainant for alteration/amendment of the charge, the same was dismissed and, therefore, there is no occasion for allowing these documents to be placed on record on the basis of which the petitioner is praying that cognizance be taken for commission of

offence punishable under Sections 427, 452 and 436 IPC. The trial Court has further held that the petitioner could not show that how these documents are relevant for decision of the present case with reference to the charge framed under Sections 323, 325 read with Section 34 IPC. Thereafter, the petitioner filed revision before the Court of Sessions and the same was also dismissed vide order dated 08.01.2018. hence the present petition has been filed before this Court.

Counsel for the petitioner has submitted that the petitioner was not in possession of the documents referred in the application under Section 311 Cr.P.C. and after obtaining the same from the RTI, he has filed the aforesaid application. It is further submitted that all these documents are relevant to prove that the accused have committed the offence punishable under Sections 426, 452 and 436 IPC.

After hearing the counsel for the petitioner, I find no merit in the present petition. A perusal of the orders passed by both the Courts below show that after framing the charge against the respondents/accused persons on 16.01.2014, the petitioner has moved an application for alteration/amendment of charge which was dismissed by the trial Court and admittedly, no appeal or revision was filed against the same. Both the Courts below have further recorded a finding that even the application filed by the petitioner for further investigation was also dismissed and, therefore, at this stage, allowing the application under Section 311 Cr.P.C. regarding the documents which relates to the allegations of the complainant that charge under Sections 427, 452 and 436 IPC can be made out is not acceptable. It be noticed here that this application has been moved after a period of 4½ years and a perusal of

the application under Section 311 Cr.P.C. show that it does not meet the requirement of well settled principle of law.

No ground for interference is made out.

Dismissed.

28.02.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No