

Sr. No.111

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

**CRR-3174-2018(O&M)
Date of decision:20.09.2018**

Parminder

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Bhupinder Banda, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

CRM-33514-2018

Allowed as prayed for.

CRM-33515-2018

Allowed as prayed for.

Annexure P-1 is taken on record.

CRM-33516-2018 in/and
CRR-3174-2018

Challenge in the petition is to the Order dated 31.08.2018 whereby the application moved by the petitioner, under Section 311 Cr.P.C, for leading in evidence the CD, allegedly containing the conversation between the two accused, has been rejected by the Trial Court.

Order passed by the Trial Court shows that the CD is alleged to be containing some conversation between the two accused, regarding their illicit relations, which is stated to be the reason behind the suicide committed by the father of the present complainant. While dismissing the

application, the Trial Court has noted that the complainant has not given any particulars of the conversation. No date, month and year of conversation has been mentioned in the application. The Court has observed that the petitioner was having the knowledge of the fact that there was voice recording in the shape of CD. He could have produced the same before the investigation officer, or atleast, he should have produce the same at the stage when the evidence of the prosecution was going on. Now even the statements of the accused under Section 313 Cr.P.C have been recorded. At this stage, the complainant can not be permitted to fill up the lacuna, if any, in the case.

Learned counsel for the petitioner contends that the CD contains the conversation reflecting upon the illicit relations between the two accused, who are the wife of the petitioner and his maternal uncle. Since the father of the petitioner has committed suicide due to humiliation on account of illicit relations between the two accused, therefore, the CD which is sought to be placed on record, would constitute a relevant piece of evidence. It is further contended that the application under Section 311 Cr.P.C. can be moved at any stage.

Having heard the learned counsel for the petitioner and perusing the record, this Court does not find any illegality or perversity in the Order passed by the Trial Court. A perusal of the application filed by the petitioner himself shows that he has not mentioned the details regarding the conversation, allegedly contained in the CD. No date or time of the alleged conversation is mentioned in the application. Even the source of the alleged conversation between the two accused is not disclosed in the application. There is nothing disclosed in the application as to what portion

of the said conversation and how, would be relevant qua the charge of abetment of suicide by the father of the complainant. Hence, even prima facie, the CD is not relevant, much less necessary, for just decision of the case.

Although the submission of learned counsel for the petitioner that the application under Section 311 Cr.P.C. can be moved at any stage, is legally tenable, however, on the facts of this case this argument can not be accepted by the Court. As mentioned above, no relevance of the CD to the offence of abetment of suicide is disclosed in the application. The evidence of the prosecution already stood completed. Therefore, there is no justification for moving of the application at the stage; when the statement of the accused have already been recorded under Section 313 Cr.P.C; and the case is fixed for the defence evidence.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

20th September, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*