

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR NO.3665 of 2018
DECIDED ON: November 01, 2018

JAGIR SINGH

..PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Kanwar Satbir Singh, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition, the petitioner-complainant lays challenge to order dated 12.09.2018 passed by the trial court, dismissing his application under Section 311 Cr.P.C. for summoning of two additional witnesses namely Surender son of Mahender and Pawan son of Ashok Kumar as the said persons had submitted their affidavits duly notarized to the police, corroborating the version of the complainant which finally culminated into FIR No.122 dated 20.03.2015, on the direction of SC and ST Commission.

Briefly, respondents No.2 to 5 were booked and facing trial in the aforesaid FIR under Sections 323, 325, 506 IPC and 3(1) (x) of the Scheduled Tribes (Prevention of Atrocities Act) 1989, registered at Police Station Assandh. After conclusion of prosecution evidence, the complainant moved application under Section 311 Cr.P.C. to summon

and examine aforesaid two witnesses on the pretext that they had submitted their affidavits before the police, during investigation endorsing the version of the petitioner prior to registration of FIR. Therefore, the statements of both the aforesaid persons were very much necessary for effective adjudication of the matter.

Learned counsel for the petitioner contends that the statements of both the aforesaid witnesses are very much necessary to prove the allegations against respondent No.2 to 5 (accused) and to corroborate the statement of the petitioner. Ld. trial court has failed to appreciate that PW-6 Harjit Singh @ Laddi and PW-7 Mahinder Singh in their statements have categorically testified that at the time of incident, the aforesaid two persons were also present at the place of occurrence.

Having given anxious consideration to the submissions made by learned counsel for the petitioner, this Court finds that the instant petition is completely devoid of any merit for the reasons to follow:-

1. The impugned application under Section 311 Cr.P.C. was filed at a very belated stage i.e. after 3 years of registration of FIR on 20.03.2015 and conclusion of prosecution evidence.

2. Affidavits allegedly submitted by aforesaid two persons before police, during investigation and before registration of case, did not see the light of the day, till moving of the application under Section 311 Cr.P.C. by the petitioner. Since, the alleged

affidavits were not made part of final report under Section 173(2) Cr.P.C., therefore, their credibility is doubtful.

3. The petitioner has already examined two eye witnesses PW-6 Harjit Singh and PW-7 Mohinder Singh, in support of his deposition. Their statements are sufficient for this Court to decide the trial in an effective manner, inasmuch as quality of evidence has to be led and not the quantity. Since, two eye witnesses have already been examined by the petitioner, therefore, there is no necessity to summon and examine the aforesaid two persons as additional witnesses.

In the impugned order dated 12.09.2018, trial court has specifically observed that all the prosecution witnesses have been examined before filing the impugned application under Section 311 Cr.P.C. by the prosecution, wherein, in the cross-case, only one witness is left to be examined. Therefore, the petitioner cannot be permitted to fill up a lacuna by moving the impugned application, which is an abuse of the process of law.

Considering over all facts and circumstances discussed above, this Court endorses the aforesaid view of the trial court.

In view of the above, the instant petition is dismissed.

November 01, 2018

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No