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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3877-2019 (O&M)
Date of decision-03.05.2019

M/S Royal Crop Science (India)

....Petitioner

Vs.

Satish and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Abhinav, Advocate for
Mr. Vikram Singh, Advocate for the applicant-petitioner.

MANOJ BAJAJ, J.

CRM-7954-2019

Application is allowed as prayed for.

Annexure P-6 is taken on record.

Main case

This petition has been filed for challenging the order dated 09.01.2019 passed by the revisional Court whereby it has affirmed the order dated 26.11.2018 passed by trial Court, dismissing the application under | Section 311 Cr.P.C filed by the petitioner (complainant).

Petitioner is a complainant in a criminal complaint No.710/2017 dated 29.03.2017 registered under Sections 138 and 142 of Negotiable Instruments Act, 1881 against the respondents.

Learned counsel for the petitioner has contended that the application was filed under Section 311 Cr.P.C by the complainant for producing the business policy between the parties. Learned counsel contends

that the cheque in question was issued by the accused to discharge his liability which was legally enforceable i.e. to pay the outstanding amount to the complainant. According to him, this policy would give further strength to his case to establish liability of the accused, as the same was legally enforceable.

Learned counsel for the petitioner has been heard and with his assistance I have gone through the case file carefully.

It is conceded by learned counsel for the petitioner that the business transactions between the parties were maintained in the ledger account and the complainant had been issuing bills as well to the accused. To a specific query, it is admitted by learned counsel that ledger account maintained by the complainant in respect of transactions with accused has already been adduced in evidence before the Court, however, no bills were tendered in evidence. It is fairly stated by him that the application was moved on 26.09.2018, i.e. after closure of the evidence of the complainant.

I have perused the impugned order. The trial Court has proceeded to dismiss the application on the ground that ample opportunities were availed by the complainant and his witnesses to produce the documents, but the documents were not produced which are now being sought to be adduced, therefore, application under Section 311 Cr.P.C has been filed.

The trial Court held that the said provision cannot be resorted to by the complainant to fill up the lacuna. The said order has been upheld by the Revisional Court as well. The revisional Court while dismissing the

application under Section 311 Cr.P.C, observed as under:-

“5. The application filed by the revisionist under Section 311 Cr.P.C before the Trial Court shows that ground of moving application was that defence counsel made cross-examination upon the complainant witness and specifically asked about the account statement prior to 01.04.2016 at Page No.3 of the cross-examination of second time and even about the statement of accounts of entire business period. The defence counsel also asked about the replacement terms of the complainant. Hence, from the application submitted before the Trial Court, the revisionist has felt need to produce the documents, now sought to be allowed by filing the present revision. However, this is an attempt to fill the lacuna of its case. After all the accused would try to prove his defence by cross-examining him, does not mean that revisionist would keep on leading additional evidence whenever he is cross-examined.”

This Court does not find any valid reason to interfere with the orders passed by the Courts below as they are based on proper appreciation of the facts and law on the subject. Even otherwise, once the complainant has adduced in evidence the ledger account between the parties, that may be sufficient on the issue. The policy sought to be adduced in evidence carries intricacies regarding business dealings between the complainant and

accused, and therefore, may not be strictly relevant to the the liability part.

Resultantly, no ground is made out for interference with the
impugned order dated 09.01.2019.

The petition is dismissed.

03.05.2019
vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No