

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

CRM-M-33711-2015 (O&M)

Date of decision : 12.04.2019

Amita Kumari

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Kushagra Mahajan, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Prayer in the application is to permit the petitioner to produce in additional evidence the certified copy of application filed in the Court of Deputy Commissioner-cum-Collector, Amritsar dated 28.04.2008 and affidavit in support thereof executed by Rai Sahib Mehta.

Learned counsel appearing for the respondent has vehemently submitted that the effort of the petitioner is to delay the trial and the application in question was moved on the day defence evidence was closed. Hence, he submitted that the Court cannot permit the petitioner to fill up the lacunas. He further submitted that the Courts below have rightly declined the request of the petitioner. He further submits that according to his instructions, application is not signed by Rai Sahib Mehta.

On the other hand, learned counsel for the petitioner has drawn attention of the Court to the statement of Rai Sahib Mehta under Section 313 of the Code of Criminal Procedure wherein he denies that there was any date of hearing on 17.04.2008.

Power under Section 311 of the Code of Criminal Procedure permits the parties to lead evidence which is called in common language as “additional evidence” and the Court is entitled to permit such additional evidence to be led if it appears to be essential to the just decision of the case. Here in the present case, an application moved before the quasi judicial Tribunal supported by an affidavit attached is sought to be produced which according to the petitioner would help the Court in just decision of the case. The fundamental principle behind incorporation of Section 311 is to enable the Court at any stage of inquiry, trial or any proceeding under this Code to summon any person as a witness or examine any person in attendance. The prime objective is to achieve just decision of the case.

In the considered view of this Court while interpreting Section 311, the Courts below have taken very narrow view.

The Courts have erred in overlooking the spirit behind the provision under Section 311 of the Code of Criminal Procedure. Accordingly, the orders under challenge are set aside.

The present petition is allowed.

Petitioner is granted permission to prove the application Annexure P-3 and affidavit in support thereof in evidence. Needless to say that counsel appearing for Rai Sahib Mehta would be granted opportunity to cross-examine the witness. If prayed for, Rai Sahib Mehta would also be

granted opportunity to lead evidence. However, keeping in view the fact that the case is pending on the basis of the First Information Report registered on 27.05.2008, learned trial Court is requested to conclude the trial expeditiously preferably within a period of three months. The evidence sought to be led, would be restricted to Annexure P-3.

Petition is disposed of.

12.04.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No