

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

**CRM No.M-38858 of 2018 (O&M)
Date of Decision: February 22, 2019**

Baldev Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.N.P.S.Mann, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab
for the respondent-State.

Mr.Baldev Singh, Advocate
for respondent No.5.

None for respondents No.6 to 11.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for quashing of order dated 01.06.2018 passed by learned Judicial Magistrate Ist Class, Ajnala, vide which the application under Section 311 Cr.P.C. moved by the petitioner-complainant through Additional Public Prosecutor has been dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.5 appeared and contested the petition.

None has put in appearance on behalf of respondents No.6 to 11 despite

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the record shows that during the pendency of the trial, an application under Section 311 Cr.P.C. has been filed by learned APP to summon Reader of Deputy Superintendent of Police, Sub Division Ajnala, to produce the documents i.e. notice dated 09.04.2014 served by Advocate of the Hon'ble Supreme Court of India, High Court of Punjab and Haryana, statement of Daljit Singh along with other documents, which are lying in the office of DSP, Sub Division, Ajnala. In reply to the application, accused contested the same on the ground that application is not maintainable at that stage. Learned trial Court dismissed the application by holding that Reader of DSP cannot prove the documents and statement of Daljit Singh recorded under Section 161 Cr.P.C. is already attached with the judicial file.

First of all, I find that application under Section 311 Cr.P.C. can be filed at any stage of the trial. Therefore, in no way, it can be held that application is not maintainable at that stage. Secondly, the perusal of the impugned order shows that trial Court has nowhere held that those documents are not necessary to decide the matter in dispute. The simple findings are that the Reader cannot prove those documents and statement under Section 161 Cr.P.C. and the application dated 22.04.2014, on the basis of which, FIR was registered, are already there.

The impugned order dated 01.06.2018 shows that prosecution wants to prove the notice served by the Advocate, statement of Daljit Singh along with other documents, which are lying in the office of DSP, Sub Division, Ajnala. It is not the stage for the Court to give finding that these

documents cannot be proved by Reader of the DSP. When evidence is produced before the Court or at the time of final decision, the Court will be at liberty to see whether those documents have been proved as per law or not. Secondly, value attached to the document, is also to be seen at the time of final decision. At this stage, it cannot be held that these documents cannot be proved by Reader of DSP. As already discussed, the Court has nowhere held that those documents are not relevant or necessary for just decision of the case.

Therefore, finding merit in the present petition, the same is allowed. The impugned order dated 01.06.2018 passed by learned JMIC, Ajnala, is set aside.

February 22, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No