

CRM-M-39681 of 2016

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

CRM-M-39681 of 2016
Date of Decision: 29.01.2019

M/s Prime Steel Processors

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Bhavesh Aggarwal, Advocate,
for Mr. Ashish Aggarwal, Advocate, for the petitioner.
Mr. Davinder Bir Singh, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. petitioner has laid challenge to order dated 06.09.2016 (Annexure P-5) of the trial Court, whereby its application under Section 311 Cr.P.C. to examine accountant of complainant firm and concerned person of M/s Vee Kay Concast Pvt. Ltd, was dismissed.

Learned counsel for the petitioner contends that trial Court failed to appreciate that examination of the above witnesses was very much necessary to bring true facts on the record for just decision of the case. Trial Court has dismissed the application of the petitioner under Section 311 Cr.P.C. on the ground that same has been filed to fill up the lacuna. This observation of the trial Court is erroneous in view of the fact that a bank official examined by the respondent had testified about some other transaction and not about present one.

Having given thoughtful consideration to the rival submissions,

CRM-M-39681 of 2016

this Court finds merit in the instant petition for the reasons to follow.

Examination of abovesaid two witnesses, sought to be examined by the petitioner-complainant, does not amount to filling up of any lacuna, rather would clarify the matter in dispute between the parties. In case, petitioner had filed its application under Section 311 Cr.P.C. at a belated stage, in that eventuality, respondent could be compensated by costs.

Considering overall facts and circumstances, instant petition is allowed. Impugned order dated 06.09.2016 (Annexure P-5) is set aside, subject to costs of ₹15,000/-, out of which ₹5,000/- shall be deposited with the District Legal Services Authority, Ludhiana and remaining ₹10,000/- shall be paid to the respondent.

January 29, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

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