

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

CRM No.M-42207 of 2014 (O&M)

Date of Decision: July 05, 2019

Anil Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Petitioner-in-person.

Mr.Chetan Sharma, AAG, Haryana
for the respondent-State.

Mr.R.K.Gupta, Advocate
for the complainant.

INDERJIT SINGH, J.

Petitioner Anil Kumar has filed this petition under Section 482 Cr.P.C. against respondent State of Haryana, for quashing of order dated 28.08.2014 passed by learned JMIC, Safidon, vide which, application filed by the prosecution for summoning concerned official of HRC Branch, DC Office, was allowed and judgment dated 18.11.2014 passed by learned Addl. Sessions Judge, Jind, vide which the revision petition filed by the petitioner was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

From the record, I find that prosecution filed the application

before learned trial Court for summoning concerned official of HRC Branch, D.C. Office, Jind. It is stated in the application that prosecution wants to prove sale deeds No.559 dated 15.07.1997 and 590 dated 24.07.1997 executed by accused No.1 in favour of accused No.2 and 3 in respect of plot measuring 124 sq. yards and to summon concerned Clerk of HRC Branch, DC Office, Jind. In reply to this application, accused stated that no provision has been mentioned under which the application has been filed. It is also stated that one application under Section 91 Cr.P.C. was filed by the complainant on the same facts, which was dismissed by the Court and second application, on the same facts is not maintainable.

Learned trial Court held that prosecution moved application for examination of official of the Registry Branch and this can be covered under Section 311 Cr.P.C. i.e. provision for additional evidence. The Court further held that relief claimed in the previous application under Section 91 Cr.P.C. and relief claimed in the present application, are different as well as scope and object of these two applications are totally different and the application was allowed vide order dated 28.08.2014. Against this order, a revision was filed, which was dismissed by learned Addl. Sessions Judge, Jind, vide impugned judgment dated 18.11.2014.

After hearing petitioner-in-person, learned State counsel as well as learned counsel for the complainant and after going through the record, I find that the application under Section 311 Cr.P.C. can be filed at any stage. The only point is whether the evidence, which the prosecution wants to prove, is necessary and relevant for the just decision of case or not. It is settled law that Court should do substantial justice between the parties and

mentioned in the application, it is of no consequence and application cannot be dismissed on this ground. Secondly, learned trial Court has rightly held that application under Section 91 Cr.P.C. and application under Section 311 Cr.P.C. are having different scope and object. Nothing has been argued that said documents are not relevant or are not necessary for the just decision of the case. When the witness will come in the Court, the petitioner will get an opportunity to cross-examine the witness and no prejudice will be caused to him and petitioner can also produce the defence evidence to rebut the additional evidence. Furthermore, the fact whether document has been proved, as per law or not, is to be seen at the time, when the evidence is produced or at the time of final arguments.

In view of the above discussion, I find that no illegality has been committed by learned Courts below while passing impugned order and judgment.

Therefore, finding no merit in the present petition, the same is dismissed.

As the main case is decided, therefore, criminal misc. application, if any, also stands disposed of.

July 05, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No