

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

CRM-M-42976 of 2017 (O&M)

Date of Decision:-11.7.2019

Rajesh Kumar Garg

... Petitioner

Versus

Rajesh Chopra

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashit Malik, Advocate for the petitioner.

None for the respondent.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner-complainant Rajesh Kumar Garg has filed this petition challenging order dated 9.9.2017 (Annexure P-14) passed by SDJM, Pehowa whereby his application under Section 311 Cr.P.C. has been dismissed in toto.
2. Today, at the very outset, the learned counsel for the petitioner has submitted that he restricts his prayer to the limited extent of production of complaint, which is a complaint made by the accused Rajesh Chopra to the S.S.P. Chandigarh, which is annexed with this petition as Annexure P-6. The learned counsel has further submitted that he does not insist his prayer for producing other documents in the shape of CDs etc. The learned counsel for the petitioner has submitted that the matter is still at the stage of recording evidence of the complainant before the trial Court and that in these circumstances it cannot be said that the accused would be prejudiced in any manner. It has further been submitted that in any case, the law pertaining to

Section 311 Cr.P.C. is liberal especially when it cannot be said that the application has been filed belatedly i.e. after the complainant's evidence has been concluded.

3. Although, notice of motion had been issued to the respondent and at one stage Ms. Harleen Kaur, Advocate had put in appearance on behalf of the respondent but despite the matter having been called twice, none has put in appearance on behalf of the respondent today.
4. I have considered the aforesaid submission raised on behalf of the petitioner and have also perused the record.
5. Bearing in mind that the matter is still at the stage of recording of evidence of the complainant and that the evidence sought to be led i.e. a complaint made by the accused Rajesh Chopra to SSP, Chandigarh i.e. complaint dated 9.2.2015 which was registered vide No.C-90/RD/DIG/UT on 25.2.2015 wherein the accused is stated to have admitted the issuance of cheques in question could be a matter relevant to the issues in dispute in the present case, a case is made out for allowing the petitioner to adduce aforesaid evidence.
6. Without commenting any further on the case, the petition, as such, is accepted to the limited extent of permitting the petitioner to lead evidence in the shape of summoning the concerned official from the office of S.S.P. Chandigarh so as to produce a copy of the complaint made by the accused Rajesh Chopra, a copy whereof is annexed with the petition as Annexure P-6. It is clarified that it is only the complaint sans other documents on the complaint file which shall be allowed to be produced.

7. The impugned order, as such, is set aside and the application under Section 311 Cr.P.C. is allowed to the limited extent as indicated above. The petition stands accepted in the above mentioned terms to the limited extent as indicated above.

11.7.2019

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No