

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

CRM-M-21191-2019 (O&M)

Date of decision : 15.05.2019

Dharam Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Amit Arora, Advocate for the petitioner.

ANIL KSHETARPAL, J.

Through this petition filed under Section 482 of the Code of Criminal Procedure (hereafter to be referred as “the Cr.P.C.”), quashing of order dated 06.04.2019 has been sought allowing two applications filed under Section 391 of the Cr.P.C. for permission to lead additional evidence during the pendency of the criminal appeal filed against the judgment of conviction and order of sentence passed under Section 138 of the Negotiable Instruments Act, 1881.

In the considered view of this Court, detailed facts are not required to be noticed as these have already been noticed in the impugned order.

This Court has heard learned counsel for the petitioner at length at the time of preliminary hearing.

The documents which are sought to be produced in additional

evidence are:-

- 1) Certified copy of interim order passed by the Civil Court in between the parties.
- 2) Agreement to sell
- 3) Certified copy of the plaint in Civil Suit titled as Gurmej Singh Vs. Dharam Singh.
- 4) Certified copy of the written statement filed by the complainant in the aforesaid suit.
- 5) Certified copy of the account statement of Dharam Singh complainant.

Learned counsel for the petitioner has submitted that the impugned order is not sustainable as the applications filed for additional evidence and the documents sought to be produced are beyond the scope of defence projected in the statement under Section 313 of the accused. Hence, he submitted that accused cannot be allowed to set up a new case.

Examination of the accused under Section 313 of the Cr.P.C., is not a statement of the accused in defence, rather it empowers the Court to examine the accused generally and put him incriminating material which has come in evidence. Still further, Section 391 of the Cr.P.C. does not in any manner restrict the jurisdiction of the Appellate Court to take further evidence or direct it to be taken only within the four corners of the statement of the accused under Section 313 of the Cr.P.C.. The purpose of recording of statement under Section 313 of the Cr.P.C. is not to restrict the defence the accused proposes to take. The powers of the Appellate Court under Section 391 of the Cr.P.C. are very wide and Appellate Court either suo

motu or on an application, is entitled to permit additional evidence necessary for just decision of the case.

In view thereof, there is no ground to interfere with the well reasoned order passed by the learned First Appellate Court.

Accordingly, the present petition is dismissed.

15.05.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No