

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-9318 of 2015

.....

Date of decision:08.04.2019

Ishwar Garg

.....Petitioner

v.

Sat Narain Gupta

.....Respondent

....

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Parminder Singh, Advocate for the respondent.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the impugned order dated 10.3.2015 (Annexure-P.6) passed by learned Judicial Magistrate Ist Class, Karnal, vide which the application filed under Section 311 Cr.P.C. has been allowed without taking into consideration of mandate of law.

Notice of motion was issued in this case.

Mr. Parminder Singh, learned Advocate has appeared on behalf of the respondent and contested this petition.

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

From the record, I find that Sat Narain Gupta filed complaint against Ishwar Garg under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act'). During the pendency of the proceedings, an application was filed under Section 311 Cr.P.C. by the applicant/complainant to examine the witnesses mentioned in para No.2(i)

and (ii) of the application. It has been stated in the application that it has come in the cross-examination of applicant/complainant that he used to deal with M/s Dhanpat Rai Mohinder Pal. On many occasions, he had given and taken money from the aforesaid firm. All the transactions of the applicant/complainant with the firm were duly mentioned in the account ledger for the year 2009-10, prepared and attested by Rajinder Mittal, Chartered Accountant. To prove the ledger account, the applicant/complainant wants to examine the witnesses mentioned in para No.2(i) and (ii) of the application. It has also been stated that the said witnesses were relevant and material to prove the ledger account for the year 2009-10 and would only help the Court in deciding the present case in just and proper manner.

In the reply, the accused stated that it was not legally maintainable as it has been filed by the applicant/complainant to fill-up the lacuna. Further, the cross-examination of applicant/complainant was completed on 9.5.2014 and thereafter availed sufficient time and opportunities to conclude his evidence, but despite that he did not tender the ledger account 2009-10. It has also been stated that the ledger is not necessary and material to decide the present case.

The learned trial Court after discussing the provisions of law, allowed the application. Aggrieved from this order, the present petition has been filed for the quashing of the impugned order.

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

From the record, I find that an application under Section 311

Cr.P.C. can be filed at any stage, even before pronouncement of the order.

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The learned trial Court is only to see whether this evidence is material and necessary for just decision of the case. The complainant has been cross-examined by the defence counsel regarding these transactions with the firm regarding giving and taking money. If the complainant wants to produce ledger account, in no way, it can be held that it is not necessary. Otherwise also, no prejudice is going to be caused to the present petitioner. He will have the right to cross-examine the witnesses. Therefore, to do substantial justice between the parties, the evidence which the petitioner wants to produce is necessary. The Court below also held that every such document which is related to the matter in dispute, in any manner, should be placed on the file as it would only help the Court in deciding the case in just and proper manner after examining the same from all possible angles.

The findings given by the learned trial Court, in no way, can be held as illegal. The impugned order passed by the Court below is as per law.

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

April 08, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No