

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

Sr. No.201

DATE OF DECISION: December 03, 2019

CRM-M-5252-2017

PARSHANT SHARMA

..PETITIONER

VERSUS

YOGENDER SINGH @ JOGENDER SINGH

...RESPONDENT

2.

CRM-M-6196-2017

SUSHIL KUMAR

..PETITIONER

VERSUS

YOGENDER SINGH @ JOGENDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Prabhdeep Singh Dhanju, Advocate for
Mr. Jatinder Pal Singh, Advocate,
for the petitioner.

Mr. G.C. Shahpuri, Advocate,
for the respondent.

SUDHIR MITTAL, J. (ORAL)

This judgment shall dispose of CRM-M-5252-2017 and CRM-M-6196-2017 as order dated 27.01.2017 passed by Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri is under challenge.

The aforementioned order came to be passed on an application moved by the petitioner-complainant under Section 311 Cr.P.C. seeking to lead additional evidence after the prosecution evidence had been concluded

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and the Section 313 Cr.P.C. statement of the accused had been recorded. The petitioner wants to produce additional evidence to show that the accused is maintaining another account in Syndicate Bank in which his name is mentioned as '*Joginder*'. This evidence is relevant because there is a receipt Ex.C6 on record in which the accused has signed as '*Joginder*' whereas the cheque in dispute has been signed as '*Yoginder*'.

Learned counsel for the petitioner submits that the application was filed at a belated stage because the petitioner acquired knowledge of the 2nd bank account in Syndicate Bank only at a later stage. Under Section 311 Cr.P.C., an application for additional evidence can be moved at any time before conclusion of the trial. Thus, the trial Court was in error in rejecting the application. He has placed reliance upon *P. Chhaganlal Daga vs. M. Sanjay Shaw, 2003(11) SCC 486* and *Iddar & ors. vs. Aabida, 2007(3) R.C.R. (Criminal) 909* in support of his submissions.

Learned counsel for the accused-respondent submits that the complainant-petitioner has already examined CW4-Akshay Narang from Axis bank i.e. an official from the bank on which the cheque in dispute has been drawn and the said witness has deposed that the respondent holds another account in the said bank, the documents of which are in the name of '*Joginder*'. Thus, the petitioner has already led evidence to show that the respondent is known by the name of '*Yoginder*' as well as '*Joginder*'. The leading of additional evidence is aimed to delay the trial and is in fact unnecessary. The handwriting expert should have been examined during the prosecution evidence because the accused had already denied his signature on Ex.C6. Jurisdiction under Section 311 Cr.P.C. cannot be used to fill up the gaps in the evidence. Reliance in this regard is placed upon

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R.C.R. (Criminal) 162. He also submits that the order of the trial Court was revisable and consequently the present petition under Section 482 Cr.P.C. is not maintainable.

To counter the submission of learned counsel for the respondent that a petition under Section 482 Cr.P.C. is not maintainable where the order is revisable, learned counsel for the petitioner relies upon ***Prabhu Chawla vs. State of Rajasthan & anr., 2016(4) R.C.R.(Criminal) 270.***

So far as jurisdiction under Section 311 Cr.P.C. is concerned, it is settled that additional evidence can be led at any stage of the trial. The only requirement is that the evidence sought to be adduced should be relevant for the decision of the case. It has been so held by the Supreme Court in ***P. Chhaganlal Daga's case (supra) and Iddar's case (supra)***. It is equally well settled that a lazy litigant cannot take benefit of the jurisdiction available to the trial Court under Section 311 Cr.P.C. to enable him to fill the gaps in his evidence as has been held in the case of ***Swapan Kumar Chatterjee (supra)***. Thus, the question in the present case is whether the additional evidence sought to be adduced is actually essential for the decision of this case or not.

It is evident that the prosecution has already examined CW-4 Akshay Narang from Axis Bank who has deposed that the accused is also known as '*Joginder*' and there is documentary evidence on record regarding the same. Thus, no useful purpose would be served by summoning the record of Syndicate Bank to prove the same fact. So far as the examination of handwriting expert is concerned, if the petitioner was serious to get the

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handwriting of the accused compared, he could have done so at the time of leading his own evidence. Permitting him to examine a handwriting expert at this stage would amount to permitting him to fill up the gaps in his evidence and the same is prohibited by Section 311 Cr.P.C. as is evident from the judgment of *Swapan Kumar Chatterjee's case (supra)*.

Regarding the maintainability of the present petitions, I deem it fit not to opine on the issue as an opinion thereupon can be expressed in a relevant case.

In view of the above, I find no merit in the present petitions, which are accordingly dismissed.

December 03, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No