

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

119

CRM-M-7605 of 2018 (O&M)

Date of decision: 21.08.2019

Jaswinder Singh

..... Petitioner

Versus

Varinder Patel and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Vishavjeet Singh, Advocate  
for the petitioner.

Mr. G.S. Jagpal, Advocate  
for respondent No.1.

Mr. S.K. Sandhir, Advocate  
for respondent No.3.

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**ANIL KSHETARPAL, J. (ORAL)**

**CRM-21542-2019**

Application is allowed and the document is taken on record.

**CRM-M-7605 of 2018**

The application filed by the complainant-petitioner under Section 311 of the Code of Criminal Procedure to produce the original agreement to sell has been dismissed by the learned trial Court vide impugned order. It is undisputed that a copy of the agreement to sell has already been exhibited as Ex.CW-2/A. Learned Court has dismissed the application on the ground that it would cause serious prejudice to the case of the accused.

Learned counsel for the respondents-accused were repeatedly

called upon to show how production of original agreement to sell, a copy whereof has already been exhibited on record is going to prejudice their case, but they were unable to answer.

There is an enabling power under Section 311 of the Code of Criminal Procedure to furnish production of additional evidence in the interest of justice. In this case, the vital document for adjudication of the case is agreement to sell. The entire case is based upon that agreement to sell. The complainant while leading evidence has produced a copy thereof which was exhibited. It has been pleaded that the original could not be produced due to inadvertent error. In these circumstances, the order passed by the learned Court is not sustainable.

In view thereof, the order dated 25.01.2018 is set aside. The petitioner is permitted to produce the original agreement to sell.

If the counsel for the accused pray for corresponding opportunity for defence evidence, the accused shall be granted one opportunity to lead defence evidence.

Accordingly, the present petition is allowed.

**21.08.2019**

D.Bansal

**( ANIL KSHETARPAL )  
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No