

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40917-2019(O&M)

Date of Order: 24.10.2019

SANT RAM MANGAT RAM JEWELLERS PRIVATE LIMITED

..Petitioner

Versus

TRISHLA JAIN AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S.Sidhu, Advocate, for the petitioner.
Mr. Sunny K. Singla, Advocate, for respondent no.1.

ANIL KSHETARPAL, J(Oral)

Complainant-petitioner is in revision against the order passed by the learned Judicial Magistrate Ist Class, Ludhiana, dismissing application under Section 311 Cr.P.C.

Through the application, complainant-petitioner wants to examine Navdeep Khanna, who has already appeared as CW2 and wants to produce and exhibit the documents i.e. ledger accounts, sale register, balance sheet with audit reports along with list of sundry debtors and creditors. It has been noticed by the court that when CW1 appeared, he was thoroughly cross-examined with regard to books of accounts maintained by the company. He admitted that he has not produced ledger or books maintained. On further cross-examination, he admitted that annual audit of the documents of their company are being carried out every year and

admitted that he has not produced copy of audit report in which the cheque amount has been depicted. The evidence of the complainant was closed by their counsel on 01.10.2014. Application in question was filed in 2019.

Keeping in view the aforesaid facts, learned court dismissed the application.

This court has heard learned counsel for the parties at length.

Learned counsel for the petitioner submitted that Section 311 Cr.P.C. enables the court to allow examination of any witness and production of the documents in evidence at any stage. He further submits that the court while deciding the application should only be governed by the fact that whether such evidence would help the court in adjudication of the just decision of the case. He in support thereof relies upon judgment passed by the Hon'ble Supreme court in the case of **Zahira Habibullah Sheikh and another vs. State of Gujarat and others, (2006) 3 SCC 374.**

On the other hand, learned counsel for respondent No.1 has submitted that the accused also has a right to speedy trial. He submitted that the respondent-accused is facing prosecution and protracted trial for a period of 9 years in a complaint under Section 138 of the Negotiable Instrument Act which should ordinarily tried as a summon case.

On consideration of the matter, this court is of the opinion that in the facts of the present case, particularly when attention of the complainant as well as witnesses appearing on its behalf was drawn to the documents and it was admitted by them that aforesaid documents have not been produced, application filed after a period of approximately 5 years is not justified.

Hence, no ground is made out to interfere with the discretion exercised.

Dismissed.

October 24, 2019
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(ANIL KSHETARPAL)
JUDGE

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