

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 2804 of 2019
Date of Decision: 07.11.2019

Paramjeet Singh Chadha

.....Petitioner

Vs.

Hidayat Ali

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vipin Pal Yadav, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order passed by the learned trial Court (learned Judicial Magistrate Ist Class), dated 22.08.2019, by which the application filed by the complainant, in terms of Section 311 of the Cr.P.C., has been allowed, thereby further allowing another witness, Sh. Somvir, to be examined, with summons ordered to be issued to secure his presence.

The reasoning given by the trial Court is that during the cross-examination of the complainant as regards the fund from which he gave the loan amount in question to the petitioner (accused), the name of the aforesaid Somvir had come forth (as the person from whom such fund had been obtained) and therefore it was considered necessary by that Court that the said witness be allowed to be examined.

On 29.10.2019, the following order had been passed:-

“Learned counsel for the petitioner would address arguments in terms of any judgment that he wishes to cite, that the trial court could not have, on the

basis of cross-examination of the complainant, allowed the application filed under Section 311 of the Cr.P.C., to examine a witness whose name had “come out” in the cross-examination of the complainant.

Adjourned to 07.11.2019.”

Today, learned counsel submits that he would not be able to cite any judgment by which it could be said that the trial Court had acted without jurisdiction to pass the aforesaid order.

That being so and even otherwise, Section 311 of the Cr.P.C. having granted jurisdiction to a court to summon any person or witness, even if such person was not summoned earlier, if the court is of the opinion that such person is essential to be examined for the just decision of the case, and the learned trial court, vide the impugned order, having formed an opinion that the testimony of the aforementioned Somvir was necessary for such decision, I would find no reason to interfere with the impugned order.

In that context, if any judgment is to be cited, that of Zahira Habibulla H. Sheikh and another vs. State of Gujarat and others 2004 (2) RCR (Criminal) 836 can be referred to (reference paragraph 46 thereof, Law Finder DocId # 71429).

Hence, without making any comment on the actual merits of the case, for or against the petitioner, or the complainant, the petition is dismissed.

November 07, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes