

CRM-M-821-2020 (O&M)

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

**CRM-M-821-2020 (O&M).
Decided on: January 10, 2020.**

M/s Surindra Cement Store

.. Petitioner

VERSUS

State of Haryana and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Tek Chand Bansal, Advocate,
for the petitioner.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. praying for setting aside of order dated 11.10.2019, passed by the learned Additional Sessions Judge, Panchkula, in Criminal Appeal No.48 of 2018, whereby application filed under Section 311 Cr.P.C. for recalling CW.1 Kulwant Rai Jain, for further examination has been dismissed.

It has been argued by the learned counsel for the petitioner that the application was filed before the learned Additional Sessions Judge, Panchkula, under Section 311 Cr.P.C., for recalling CW.1

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Kulwant Rai Jain, for further examination which has been dismissed by the learned Additional Sessions Judge, Panchkula. He has further argued that recording of further examination of Kulwant Rai Jain, is necessary for the adjudication of the case and therefore, the order dated 11.10.2019, is liable to be set aside.

After hearing the learned counsel for the petitioner-accused and going through the order passed by the learned Additional Sessions Judge, Panchkula, it transpires that the complaint in the present case was filed on 15.1.2013 and in the pre-summoning evidence, said Kulwant Rai Jain, who is father of complainant Rashmi Gupta, appeared as CW.1. The complaint was filed through Kulwant Rai Jain as he was special power of attorney in the case. The statement of said Kulwant Rai Jain was recorded on 22.1.2013 and thereafter the accused was summoned in the complaint for the commission of offence under Section 138 of the Negotiable Instruments Act, on 22.1.2013. Thereafter, said Kulwant Rai Jain, was present in the Court for getting his statement recorded on 25.7.2016, but the learned counsel for the accused-petitioner had objected to his examination. Thereafter, complainant namely Rashmi Gupta herself appeared as a witness and her examination-in-chief has been recorded and her statement was completely recorded on 24.5.2017.

It has also come on the record that although the complaint was filed through Special Power of Attorney holder namely Kulwant Rai Jain but thereafter, the complainant herself had appeared as CW.2 and therefore, there was no need to recall CW.1 Kulwant Rai Jain

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because once the complainant herself has appeared as CW.2, her statement would be relevant for the purpose of adjudication of the case.

Now, during pendency of the appeal, application under Section 311 Cr.P.C. has been filed for the purpose of summoning Special Power of Attorney Kulwant Rai Jain. It seems that the purpose of filing the application under Section 311 Cr.P.C. is to prolong the adjudication of the appeal.

In view of above, no ground is made out for interference in the impugned order dated 11.10.2019 and consequently, the present petition is hereby dismissed.

January 10, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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