

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-802-2020 (O&M)

Date of Decision: 18.03.2020

Rajinder Kumar

.. Petitioner

Vs.

Vinay Kumar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Petitioner in person.

...

Manoj Bajaj, J.

Petitioner (complainant) has filed this revision petition against the order dated 27.02.2020 passed by the Judicial Magistrate, 1st Class, Jalandhar, vide which his application under Section 311 Cr.P.C. for adducing additional evidence filed at the stage when the case was fixed for defence evidence, has been dismissed.

The petitioner has appeared in person and contended that the documents sought to be produced before the trial Court by way of additional evidence are old documents i.e. income tax returns and the partnership deed, etc., which are relevant documents and could not be adduced by him previously, when his evidence was going on. According to petitioner, in case, permission is granted to him, no prejudice would be caused to the accused. He contends that the trial Court has wrongly dismissed the application and imposed a cost of ₹1,000/- upon him. He prays that only two opportunities be granted for adducing the additional evidence as the documents sought to be produced are necessary for proper adjudication of the case.

Dispute between the complainant and the accused relates to the

firms, which were allegedly not dissolved so far and according to the

complainant, the other partners of the firms turned dishonest and fraudulently grabbed the assets of the firms, namely, M/s Sharma Tent House and M/s Sharma Light House.

After hearing the petitioner and perusing the record, this Court finds that the trial Court has carefully examined the issue raised by the petitioner in his application under Section 311 Cr.P.C. and rightly rejected the application.

At the threshold, this Court is of the opinion that the order impugned herein being an interlocutory in nature, therefore, the revision petition is barred in view of Section 397(2) Cr.P.C. However, analyzing the material on record, this Court is of the opinion that no interference in exercise of revisional jurisdiction is made out even on merits.

Through the application filed under Section 311 Cr.P.C., the complainant has sought to produce in evidence the following documents:

- (i) Income tax record with regard to filing of income tax returns of M/s Sharma Tent House and Sharma Light House filed by accused Vinay Kumar uptill the year 2008.*
- (ii) the record from register of firm Chandigarh regarding the continuation and registration of above said both the firms i.e. M/s Sharma Tent House and Sharma Light House.*
- (iii) to produce the original incorporation certificates of above said firms.*
- (iv) certified copies of rent cases, civil suits and judgments in the connected litigation of the parties to the present case.*

It is apt to mention here that the petitioner filed the subject complaint against his mother, brother, (partners) in the joint concerns namely, M/s Sharma Light House and M/s Sharma Tent House, on the allegations that the accused in connivance with each other, forged and

fabricated the documents and created another firm with new account

number and cheated him.

The complaint was filed in the year 2008 and after charge evidence of the complainant was completed almost after a decade in the year 2018. Nothing was shown as to why the aforesaid documents pertaining to the firm wherein the petitioner was a partner, were not produced by the petitioner when his evidence was going on. The said documents were well within the knowledge of the petitioner and were in existence when his evidence was going on. But no attempt was made by him to produce them in evidence and when the case is at the fag end, the application has been filed to produce the above documents by way of additional evidence.

A perusal of the impugned order reveals that there was even no reference about the aforesaid documents in the complaint and the petitioner has failed to show that how the said documents are relevant for the adjudication of the dispute. Taking into account these aspects of matter, the trial Court rightly came to the conclusion that the complainant wants to invoke the provisions of Section 311 Cr.P.C. just to fill up the lacuna, which recourse is not permitted under law. Hence, the revision petition is dismissed.

However, it is made clear that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

18.03.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No