

**In the High Court of Punjab and Haryana at Chandigarh**

**CRM-M No. 39155 of 2017 (O&M)  
Date of Decision: 13.3.2020**

Raj Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. S.S.Lamba, Advocate  
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rajat Garg, Advocate for  
Mr. Aditya Jain, Advocate  
for respondent No. 2.

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**HARNARESH SINGH GILL, J.**

This is a petition under Section 482 Cr.P.C. for quashing of order dated 4.10.2017 (Annexure P-1) passed by Judicial Magistrate Ist Class, Faridabad vide which the application moved by the petitioner under Section 311 Cr.P.C. was dismissed.

It is a case in which an application was moved by the petitioner for examination of six witnesses on the ground that these witnesses were necessary to prove the graver charges under Sections 468 and 471 IPC, framed against the accused. The trial Court vide impugned order dated 04.10.2017 (Annexure P-1) held that none of the witnesses cited in the application is required to be re-examined again to prove the charges under Sections 468 and 471 IPC and the application was dismissed being devoid

Learned counsel for the petitioner has argued that after completion of investigation, final report under Section 173 Cr.P.C. was presented against respondent No. 2-Ajit Singh on 11.11.2006 and other accused namely Mukesh (wife of Ajit Singh), Devender, Anil Kumar and Ravinder Kumar were found innocent. The prosecution had examined seven witnesses and the evidence was closed.

Learned counsel has further argued that the petitioner-complainant had led pre-charge evidence in a criminal complaint titled 'Raj Kumar versus Ajit Singh and others' and vide order dated 16.9.2017, charges were framed against accused Ajit Singh under Sections 468 and 471 IPC and the case was fixed for evidence on behalf of the prosecution qua the said charges. At that stage the application under Section 311 Cr.P.C. was moved for examination of six witnesses and the same was dismissed by the trial Court. He further submits that the scope and object of the provisions under Section 311 Cr.P.C. is to enable the Court to determine the truth and to render a just decision after discussing all the relevant facts and obtaining proper proof of such facts and the Court below while declining the application has ignored the provisions of Section 210 Cr.P.C. as no opportunity was given to the complainant-petitioner and the prosecution to lead evidence as it was incumbent upon the trial Court to have allowed the petitioner-complainant to lead evidence to prove charges framed under Sections 468 and 471 IPC after clubbing of the complaint case with the State case. Thus, the impugned order suffers from material irregularities and infirmities and, is liable to be set aside.

Per contra, learned counsel for respondent No. 2 has argued that the application under Section 311 Cr.P.C. for examining six witnesses

has rightly been dismissed by the Court below and it is not necessary that the examination of witnesses, as mentioned in the application under Section 311 Cr.P.C., was necessary to prove the charges under Sections 468 and 471 IPC. He further submits that all these witnesses have already been examined either in the State case or in the complaint case and the examination of these witnesses again will tantamount to *de novo* trial.

I have heard the learned counsel for the parties and with their able assistance have gone through the case file.

In the present case, charges were framed against accused-respondent No. 2 Ajit Singh under Sections 468 and 471 IPC. The application under Section 311 Cr.P.C. was moved by the complainant-petitioner for examining six witnesses i.e. (i) retired Assistant Director to prove the FSL report, (ii) Civil Ahlmad, (iii) Ranjit Kumar-Clerk of an Advocate, (iv) Jaivir Singh, (v) Clerk of Municipal Corporation, Old Faridabad and (vi) Halka Patwari, Revenue Estate Anangpur. The Judicial Magistrate Ist Class, Faridabad vide the impugned order has rightly discussed that the case was fixed for prosecution evidence only after accused Ajit Singh was charge sheeted under Sections 468 and 471 IPC and, thus, only the relevant evidence was to be produced to prove the charges under Sections 468 and 471 IPC. The trial Court has further observed that since the FSL report was already tendered in the State case as Ex. PX, the examination of the witnesses was not required and moreover, the said witnesses were already examined in the complaint case.

Since the witnesses have already been examined either in the State case or in the complaint case, the trial Court has rightly observed that none of these witnesses, mentioned in the application, are required to prove

the charges under Sections 468 and 471 IPC and has rightly dismissed the application.

No interference by this Court is called for.

The petition is dismissed.

**(HARNARESH SINGH GILL)**  
**JUDGE**

**March 13, 2020**  
Gurpreet

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