

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

**CRM-M-368-2019**

**DATE OF DECISION:-29.01.2020**

**MAJOR SINGH**

**...PETITIONER..**

**V.**

**STATE OF PUNJAB AND ANRS.**

**...RESPONDENTS...**

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Chetan Bansal, Advocate,  
for the petitioner.

Mr. N.K. Banka, DAG, Punjab.

Mr. Prabhjyot Singh Chehar, Advocate for  
Mr. G.S. Nagra, Advocate,  
for respondent No.2.

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**RAMENDRA JAIN, J. (ORAL)**

Through this petition, the complainant has assailed order dated 27.11.2018 (P-1) of the trial court, whereby his application under Section 311 Cr.P.C. (P-3) for leading additional evidence was dismissed by the trial court.

Briefly, the petitioner lodged FIR (P-4) against respondent No.2 on the allegations that he forged a sale deed of the property purchased by the petitioner vide sale deed registered on 01.02.1993 purported to be executed by Harnam Singh-vendor on 14.05.1993, though said Harnam Singh expired in the year 1998.

After framing of charge, respondent No.2 was ordered to face trial. During the turn of prosecution evidence, the petitioner moved an application under Section 311 Cr.P.C. to produce and prove certain documents and to examine two witnesses included a deed writer in additional evidence. The trial court, however, did not decide the said application for four years and finally dismissed the same vide impugned order herein.

Learned counsel for the petitioner contends that the trial court illegally closed prosecution evidence without deciding the application under Section 311 Cr.P.C. of the complainant-petitioner, ignoring the fact that the same was not going to prejudice the rights of respondent No.2-accused in any manner. Rather, permitting the petitioner to produce certain documents would have helped the court in adjudication of the case in an effective manner. The trial court unnecessarily kept pending the application for no reasons for four years.

On the other hand, refuting the above submissions, learned counsel for respondent No.2 submits that the documents sought to be produced and proved were already on the record. The witnesses, which, the petitioner wanted to examine by way of additional evidence were also shown as prosecution witness in the final report under Section 173(2) Cr.P.C.. Thus, the complainant ought to have examined them before closing of prosecution evidence.

Having given thoughtful consideration to the rival submission, this Court finds the instant petition merit acceptance for the

reasons to follow:-

Unless, sale deed and other documents sought to be produced on record are legally not taken on record, the trial court would not be able to decide real controversy between the parties in an effective manner. The trial court for its own lapse of not deciding application of the petitioner under Section 311 Cr.P.C. for four years cannot be permitted to penalise the petitioner, inasmuch as, it was bounden duty of the trial court to deal with and decide application of the petitioner before closing the prosecution evidence by court order. Documents sought to be produced by petitioner in additional evidence are either official or registered documents. Therefore, no manipulation can be expected in the same.

Thus, in view of discussion above, petition is allowed. Impugned order is set aside. Trial court is directed to permit the petitioner-complainant to examine and prove the documents by examining the required witnesses mentioned in his application under Section 311 Cr.P.C.

29.01.2020

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**whether speaking/reasoned:**

**whether reportable:**

**(RAMENDRA JAIN)**

**JUDGE**

**Yes/No**

**Yes/No**