

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

CRR No.598 of 2020 (O&M)
Date of Decision: October 06, 2021

Krishan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ram Darshan Yadav, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant criminal revision has been filed seeking to challenge the order dated 11.02.2020 passed by the trial court in FIR No.270 dated 18.07.2019, registered under Sections 302, 304-B, 498-A, 34 of Indian Penal Code at Police Station Beri, whereby, the application moved by the petitioner under Section 311 Cr.P.C. has been dismissed

In brief, the facts of the case are that the aforesaid FIR was registered on the statement of petitioner-complainant namely Krishan Kumar, father of deceased Poonam. The petitioner herein moved an application under Section 311 Cr.P.C. before the trial court for directing the SHO and MHC of Police Station Beri, District Jhajjar to produce the application dated 24.07.2019 moved by his son namely Satyawan in the police station and take the same on record as additional evidence, stating

that the said application is necessary for just decision of the case.

Counsel for the petitioner herein would contend that the trial court has ample power to permit any document or witness to be recalled at any time, if the evidence appears to be essential for the just decision of the case. It is argued that the application dated 24.07.2019 moved by the son of the petitioner before the police is very relevant and necessary to reach the trial controversy. It is also contended that the impugned order passed by the trial court is illegal and liable to be set aside.

I have heard learned counsel for the petitioner and have gone through the pleadings of the case.

Section 311 Cr.P.C. details with the power of the court to summon material witness, or examine person present, which reads as under;

“311. Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or. recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

In the case in hand, on the complaint dated 18.07.2019 moved by the petitioner, who is the father of the deceased, the FIR was registered. After conducting the investigation, charge-sheet was filed in the court. During trial, the accused was charge-sheeted and case was pending for prosecution evidence, when the aforesaid application under Section 311

Cr.P.C. was filed by the petitioner. By way of said application moved under Section 311 Cr.P.C., the petitioner wanted to place on record another application moved by the brother of the deceased, Satyawar regarding the same incident.

The trial court, in its order, has observed that the complainant wanted to place on record said application moved by his son on 24.07.2019 after making further improvements in the allegations previously levelled by the petitioner against the accused vide his application dated 18.07.2019 on the basis of which, the instant FIR was registered. The trial court has further noticed that a bare perusal of the photocopy of the said application reveals that the same does not bear any date and time when the same was scribed.

The touchstone for exercise of powers under Section 311 Cr.P.C. is the satisfaction of the court that the evidence of any person, which comes to its notice, is essential for the just decision of the case. This power, under Section 311 Cr.P.C. can be exercised by the court at any stage of any inquiry, trial or other proceedings under the Code, to summon any person as witness, examine any person in attendance, though not summoned as a witness or recall or re-examine any person already examined. The intention of the Legislature is to empower and enable the court to come to a correct finding and for that reason, the court would be fully justified in permitting production of evidence whether documentary or oral. The cause of justice is paramount and no impediment has, therefore, been intentionally put on the court by the Legislature to exercise the powers under Section 311 Cr.P.C.

This court finds no illegality or infirmity in the impugned order

so passed by the trial court. Therefore, the instant criminal revision is hereby dismissed, being devoid of any merits.

October 06, 2021
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No