

In virtual Court

CRM-M-10157-2020

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

**CRM-M-10157-2020 (O&M)
Date of decision: 05.08.2021**

Ranjit Singh and others

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Arvind Kashyap, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 27.02.2020 (Annexure P-1) passed by the Additional Sessions Judge, Fatehgarh Sahib/lower appellate Court, vide which an application filed under Section 311 read with Section 391 of the Code of Criminal Procedure (for short 'Cr.P.C.') for granting permission to lead additional evidence, in an appeal filed by the petitioners challenging the judgment of conviction dated 04.09.2014, in FIR No.98 dated 22.11.2013 under Sections 323, 324, 325, 148, 149 of the Indian Penal Code (for short 'IPC'), registered at Police Station Mulepur and the order of sentence, vide which they were ordered to undergo sentence of 02 years R.I.

under Section 325 IPC with fine of Rs.1,000/- each, 01 year R.I. under Section 324 read with Section 149 IPC with fine of Rs.1,000/- each, six months R.I. under Sections 323 read with Section 149 IPC with fine of Rs.1,000/- each and one month R.I. under Section 341 read with Section 149 IPC with fine of Rs.1,000/- each, was dismissed.

Learned counsel for the petitioners submits that during pendency of the appeal, the petitioners have moved an application under Section 311 read with Section 391 Cr.P.C. to produce the certified copy of statements of complainant Harwinder Singh and one Surjit Singh along with certified copy of judgment dated 03.09.2016 passed by the Judicial Magistrate 1st Class, Fatehgarh Sahib in FIR No.23 dated 07.05.2015 under Sections 324/34 IPC, registered at Police Station Mulepur. It is further submitted that during pendency of appeal, in aforesaid FIR No.23, Harwinder Singh complainant and Surjit Singh appeared as witness and they were declared hostile and later on, accused therein namely Gurjit Singh, Gurwinder Singh, Jaswant Singh and Ranjit Singh (present petitioners) were acquitted of the charge, therefore, these are necessary documents to be placed on record to show conduct of these two witnesses. It is also submitted that in the present case also, Surjit Singh is complainant and Harwinder Singh is one of the witness, on whose testimony, the petitioners have been convicted. The conduct of these two witnesses, as noticed in the earlier judgment, has a direct bearing on merits of the case and the Court can always have judicial notice of the same, while deciding the main appeal.

Despite service, no one is present on behalf of respondent No.2- Surjit Singh, though he contested before the trial Court as reply was filed on his behalf on the grounds that the proposed additional evidence has no bearing on merits of the present case.

Learned State counsel has, however, submitted that the lower appellate Court, while dismissing the application, has observed that it is not clear how statements of aforesaid two witnesses and judgment passed in FIR No.23 are related to the present case.

In reply, learned counsel for the petitioners has submitted that in fact, the petitioners want to show that these two witnesses, who have registered FIR No.98 against the present petitioners, are also the accused in aforesaid FIR No.23. Therefore, just to show conduct of these two witnesses, who were declared hostile in FIR No.23, it will be appropriate to grant permission to lead additional evidence. It is well settled principle of law that any evidence, which goes to the root of the cause, be allowed in order to form an opinion by the Court, about conduct of a witness. It is further submitted that since proposed evidence came in existence, after passing of the judgment of conviction by the trial Court, the petitioners were not able to produce the same while leading their defence evidence, therefore, they have moved an application before the lower appellate Court.

After hearing learned counsel for the parties and considering the facts and circumstances of the case, I deem it appropriate that application under Section 311 read with Section 391 Cr.P.C. should be allowed to enable the

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petitioners to put up their proper defence before the lower appellate Court.

Accordingly, this petition is allowed and the impugned order dated 27.02.2020 (Annexure P-1) is set aside. The petitioners are permitted to exhibit the statements of complainant Harwinder Singh and witness Surjit Singh as well as certified copy of judgment dated 03.09.2016 passed in aforesaid FIR No.23, subject to right of rebuttal to be given to the respondent-complainant.

05.08.2021

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**[ARVIND SINGH SANGWAN]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No