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

CRM-M-29588-2021

Date of Decision: 29.07.2021

Aman and others

.. Petitioners

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Navmohit Singh, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner Nos.1 and 2 Aman and Rahul (both minors) have filed this petition through her mother Santosh Devi (petitioner No.3) under Section 482 Cr.P.C. to challenge the order dated 24.02.2021 (Annexure P-3) passed by the trial Court in case FIR No.972 dated 22.09.2018, under Sections 377 and 506 IPC and Section 3 SC/ST Act, registered at Police Station Sadar Hisar, whereby the application filed under Section 311 Cr.P.C. for summoning petitioner Nos.1 and 2 as additional prosecution witnesses, was dismissed.

Learned counsel for the petitioners has argued that the petitioners are brothers of victim Harinder (now deceased), who being necessary and relevant witnesses to the alleged occurrence, therefore, their deposition in trial is essential, however, the trial Court has wrongly declined their application under Section 311 Cr.P.C. According to the learned counsel, after the occurrence, the accused had extended threats to the petitioners. He prays that the impugned order dated 24.02.2021 (Annexure P-3) be set aside and the application under Section 311 Cr.P.C. be allowed.

During the course of hearing, it is not disputed by the learned counsel that after completion of investigation, the final report under Section 173(2) Cr.P.C. was filed and the names of the petitioners were not mentioned in the list of prosecution witnesses and even their statements were never recorded by police during investigation.

After hearing the learned counsel, this Court finds that the trial Court has properly dealt with the application filed by the petitioners under Section 311 Cr.P.C. and specifically observed that the complainant in his version never mentioned about any other eye-witness, who witnessed the alleged occurrence much less the petitioners. Since the complainant has expired during the pendency of the trial, whose deposition was not recorded, therefore, the petitioners have attempted to fill up the said lacuna by claiming themselves to be the eye-witnesses of the alleged occurrence. The impugned order dated 24.02.2021 (Annexure P-3) is based upon correct appreciation of the material on record, therefore, does not warrant any interference.

Dismissed.

29.07.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No