

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

**CRM-M-39027 of 2021(O&M)
Date of Decision: September 21, 2021**

Dhiraj ...Petitioner
Versus
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Munfaid Khan, Advocate
for the petitioner.

Mr.Surender Singh, AAG, Haryana.

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HARINDER SINGH SIDHU, J.

This is a petition challenging the order dated 22.07.2021, passed by Additional Sessions Judge, Rewari in CRA No.283 of 2017 titled as 'Dhiraj vs Satya Parkash and others' arising out of FIR No.328 dated 18.08.2012 under Sections 420, 406, 120-B IPC registered at Police Station Model Town Rewari, District Rewari, whereby, the application filed by the petitioner for additional evidence under Section 391 Cr.P.C., was dismissed.

The petitioner is complainant in the aforesaid case. It was lodged against respondent Nos.2 and 3 with the allegations that they had cheated the petitioner of a sum of Rs.5 lacs on the pretext of getting him a job in Merchant Navy in February, 2012. The trial culminated in the acquittal of the aforesaid respondents by the Ld. Judicial Magistrate Ist Class, Rewari vide judgment dated 01.08.2017.

Feeling aggrieved of the judgment of acquittal, the petitioner-

complainant preferred an appeal before Ld. Additional Sessions Judge, Rewari which is pending adjudication. During the pendency of the said appeal, the petitioner moved an application under Section 391 Cr.P.C. for additional evidence to place on record the report of enquiry conducted by Vinod Kumar, Inspector, State Crime Branch, Gurugram on an application moved by accused No.2 to the Lokayukt Haryana. The petitioner pleaded in his application that the report was not earlier in his knowledge and he had received the same under the Right to Information Act. Hence, the same could not be produced on record during the course of prosecution evidence before learned Trial Court. The said application was dismissed vide the impugned order.

The Ld. Additional Sessions Judge dismissed the said application by observing as under::

“5. The appellant-complainant, applicant herein, by way of additional evidence wants to produce the documents relating to the inquiry conducted on the orders of Hon’ble Lokayukta, Haryana and to examine the Clerk from that office and Inspector Vinod Kumar to prove the same. Perusal of the inquiry and consequent order passed by Lokayukta, Haryana would indicate that these were simultaneous proceedings initiated at the instance of accused Om Parkash who alleged his false implication. The result of the inquiry was that no action was recommended or taken in view of the full fledged trial already going on before the competent Court on same set of facts.

6. Having regard to the nature of evidence sought to be produced in additional evidence, I do not find it relevant for just decision of the appeal. Moreso, allowing the application would lead to denovo trial on the basis of fresh evidences. No cogent explanation has been offered for not bringing these

documents on record during trial. It is also not made out from the record that any failure of justice has occurred in absence of these documents.”

The Ld. Additional Sessions Judge observed that after receiving the report no action was recommended by the Lokayukta in view of the fact that regarding the same allegations trial was already going on. It was concluded that the report was not relevant for the just decision of the case.

There is no infirmity in the impugned order warranting interference by this Court. Thus this petition is dismissed.

September 21, 2021
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No