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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50736-2021 (O&M)

Date of Decision: 16.12.2021

Shakuntla Goyal and another

..... Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Singh Birdi, Advocate, for the petitioners.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. H.S. Lalli, Advocate, for respondent No.2.

Rajesh Bhardwaj, J. (ORAL)

Petitioners have approached this Court impugning the order dated 2nd November, 2021 passed by the learned Judicial Magistrate Ist Class, Ludhiana whereby, the application filed by the petitioner under Section 311 Cr.P.C. was declined and order dated 10th November, 2021 passed by the learned Additional Sessions Judge, Ludhiana confirming the abovesaid order passed by JMIC, Ludhiana.

Learned counsel for the petitioners submits that they moved an application under Section 91 Cr.P.C. read with Section 145 of the Indian Evidence Act for summoning inquiry file and inquiry report and the same was filed on 8th October, 2021. He submits that thereafter, the inquiry report was received by the Court on 2nd November, 2021 itself. He submits that as the application filed under Section 311 Cr.P.C. was dismissed on the very same day, they were unable to put the contents of the inquiry report to PW1 and PW3. He submits that since the petitioners had no opportunity to go through the inquiry report and hence, the dismissal of the application under Section 311 Cr.P.C. would cause substantial injustice to them. He

submits that if the prayer made is considered then he will not take more than one hour in further cross-examination of both the witnesses.

Today I have interacted with both the counsel for the parties. Though from the arguments raised by learned counsel for respondent No.2, it can be inferred that the case has a chequered history and the petitioners are prolonging the trial, however, the case in hand pertains to statutory provisions of Section 311 Cr.P.C., wherein the petitioners want to further cross-examine the witnesses, namely, Aahuti Garg and Dr. Vijay Khariwal. It has been contended by learned counsel for the petitioners that he wants to confront the witnesses with the inquiry report, which pertains to the complaint, which has been placed on record as Annexure P-1.

Learned counsel for respondent No.2 has submitted that though the petitioners are prolonging the trial, however, in the larger interest of justice, they should not be allowed to further prolong the trial, if the Court considers them to give one opportunity for cross-examining both the witnesses further. One witness, namely, Aahuti Garg has to travel from Gujrat, and the other witness, namely, Dr. Vijay Khariwal though is placed in Patna, however, as the case before the trial Court is fixed for tomorrow, he is already presently available at Ludhiana.

Keeping in view the noble spirit of statutory provisions of Section 311 Cr.P.C. and the judicial precedents, this Court feels it appropriate that in the larger interest of justice, one opportunity be granted to the petitioners for further cross-examining both these witnesses qua the inquiry report, which has been placed on record.

In view of the same, the petition is allowed. The learned trial Court is requested to grant one opportunity to the petitioners to conclude the further cross-examination of Dr. Vijay Khariwal tomorrow itself. On the other hand, witness Aahuti Garg would be cross-examined on 20.12.2021. The petitioners would pay Rs.30,000/- on account of litigation expenses to the witness Aahuti Garg on the day when she comes present.

It is being clarified, the petitioners would not have any further opportunity in case they do not avail the permission granted as above.

Allowed in above said terms.

(RAJESH BHARDWAJ)
JUDGE

16.12.2021

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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No