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

CRR-459-2022

Date of Decision: March 10, 2022

Manojj Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Sanjeev Kumar Birla, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

The petitioner has approached this Court impugning the order dated 19.04.2021 wherein the application filed by him under Section 391 Cr.P.C. was declined by the Court.

Brief facts of the case are that the petitioner is an accused in FIR No.392 dated 25.12.2009, under Sections 498-A, 406, 506 IPC, registered at Police Station City Narnaul, District Narnaul, which was lodged against him by his wife. On the conclusion of the trial, he was convicted by the trial Court. He agitated that in the absence of any legal aid, the order of conviction was passed against him. In an application filed under Section 391 Cr.P.C. before the learned Additional Sessions Judge, Narnaul, he requested that the documents already filed by him before the trial Court be taken into consideration as an additional evidence. Hence, it was prayed before the Court below that the documents, already filed before it, be taken into consideration and a fresh judgment should be passed by allowing the

After hearing the learned counsel for the parties, learned Additional Sessions Judge, Narnaul, has dismissed the application. The Court observed that the present petitioner himself closed his evidence on 05.05.2017. He placed on record the entire bunch of documents, which was already in his knowledge. Learned trial Court offered opportunities of engaging any counsel from the legal aid or of his choice but despite repeated options given, the petitioner-accused declined the same and remained adamant that he would pursue his case of his own. The counsel present with him was not allowed to pursue his case. Thereafter another counsel was provided to him. However, on number of occasions i.e., 12.03.2014, 15.04.2014, 10.02.2015, 13.02.2015, 28.02.2017, 09.03.2017, 20.03.2017, 05.04.2017, 25.04.2017 and 05.05.2017, learned trial Court noticed the conduct of the petitioner and found that he was trying his level best to delay the trial. In the overall facts and circumstances, the Court appreciated the record threadbare and arguments raised before it and in view of the law settled, declined the application moved under Section 391 Cr.P.C.

In the catena of judgments, the law is settled qua Section 391 Cr.P.C. It is clear that the appellate Court has to see whether it is in a position to deliver the judgment in the absence of the evidence prayed to be produced as an additional evidence. The documents were produced by the petitioner before the trial Court and their admissibility was to be seen by the Court. The Appellate Court has rightly observed that it was a prerogative of the Court to check the admissibility and the relevancy of the document before deciding the case. After following the same, the learned appellate

In the facts and circumstances of this case and in view of the law settled, this Court finds no infirmity in the conclusion drawn by the trial court. The petition is hopelessly without any merit and the same is dismissed as such.

March 10, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |