

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

**CRR-3590-2017
Reserved on 08.03.2022
Pronounced on : 28.03.2022**

Chanda Sood and Another

.....Petitioners

VERSUS

State of Punjab and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Jai Vir Yadav, Advocate, for the petitioners.
Ms. A. K. Khurana, DAG, Punjab.
Mr. Aman Chaudhary, Advocate, for the respondent No.2.

VINOD S. BHARDWAJ, J.

The instant petition raises a challenge to the judgment dated 07.09.2017 passed by Sessions Judge, Rupnagar, whereby the revision petition filed by respondent No.2 against the order dated 18.03.2017 passed by the Judicial Magistrate 1st Class, Rupnagar, has been allowed and the application preferred by the respondent No.2 under Section 311 Cr.P.C., to lead additional evidence has been allowed.

1. That brief reference to the factual aspects leading to the filing of the instant petition is that Vijay Behal-father of respondent No.2-complainant Hemant Kumar was married to Tripta Sood, (sister of the petitioner No.1) after death of his first wife in the year 1995. There was no child born out of the wedlock of Vijay Behl and Tripta Sood and that respondent No.2-complainant Hemant Kumar is a child born from the first marriage of Vijay Behal. Tripta Sood, the sister of the petitioner was the step mother of respondent No.2-complainant.

2. That Vijay Behal father of respondent No.2 had died in the year 2006 and thereafter, the sister of the petitioner had made efforts to secure a job for the

respondent No.2. It is alleged that after securing his job, the behaviour of respondent No.2 towards the sister of the petitioner changed as she was by then also suffering from old age related ailments. Due to the same, Tripta Sood started living with the petitioner No.1 and her family members. The petitioner had been taking care of Tripta Sood and had also taken her for her medical treatment and other needs. A lot of expenditure was incurred by the petitioners for the medical treatment of Tripta Sood for which she transferred amount from her personal account to the account of petitioner No.1. It is claimed that Tripta Sood had died issueless and intestate and her husband had predeceased her. The petitioner being her lone successor would have inherited her estate even otherwise by natural succession. It is alleged that after the death of Tripta Sood, respondent No.2 taking advantage of the unfortunate situation, got lodged one FIR No.68 dated 23.04.2015 for offences under Sections 420/34 IPC against the petitioner as well as other members of the family.

3. Upon culmination of the investigation, a final report under Section 173 Cr.P.C., had been filed by the Investigating Agency on 03.09.2015 wherein, son and daughter of the petitioners were exonerated. The charge was framed on 16.08.2015 and the first date for recording of the prosecution evidence was fixed on 08.10.2015. After recording as many as 4 witnesses over a period of one and half years since the registration of the FIR, an application under Section 311 Cr.P.C., was moved by the respondent No.2 before the trial Court to place the medical record and treatment documents relating to Tripta Sood on record and to summon the said witnesses. The said application was moved on 06.11.2016. The response to the said application was filed by the petitioners and upon consideration thereof, the

trial Court dismissed the application vide its order dated 18.03.2017. The aforesaid order was challenged by the respondent No.2 by means of filing a revision petition before the Sessions Court, Rupnagar. The said Criminal Revision No.97 dated 01.07.2017 was allowed by the Sessions Judge, Rupnagar vide judgment dated 07.09.2017 and the order of the trial Court was set aside. Aggrieved of the same, the instant petition has been filed.

ARGUMENTS BY PETITIONERS

4. Learned counsel appearing on behalf of petitioners has argued that the order dated 07.09.2017 passed by the Sessions Judge, Rupnagar is not sustainable in the eyes of law. The Sessions Court committed an error in appreciating that the order dated 18.03.2017 was passed on an application under Section 311 Cr.P.C., the said order was an interlocutory order and as such no revision lay against such an order as it did not finally decide any right or interest of the parties. It is contended by the learned counsel that the only remedy available to the respondent No.2 was to approach the High Court by means of an appropriate petition under Section 482 Cr.P.C., in case the respondents felt aggrieved of the said order. It is further argued that the application in question had not been moved by the prosecution and had in fact been filed by the complainant himself. He argued that in the absence of the application having been moved by the prosecution, the same was even otherwise not maintainable. He argued that under the garb of the permission to lead additional evidence, the complainant cannot be allowed to fill in the lacuna in the case of the prosecution, more so when it was not the case of the respondent-complainant that he ever got Tripta Sood treated from any hospital. He also argued that even in the application moved by the

how the said evidence is essential for the just and proper adjudication of the case or to the secure ends of justice.

ARGUMENTS OF RESPONDENT

5. Sh. Aman Chaudhary, learned counsel appearing on behalf of respondent No.2 has alleged that he is the author of the FIR that had been registered against the petitioners. He submitted that it is evident that an amount of Rs. 47 Lakhs had been withdrawn from the account of his step-mother during the period from 03.11.2015 to 27.11.2015. The case has been registered on account of the illegal withdrawal of the said money as the claim of the petitioners is that the same was withdrawn towards the medical expenses of deceased-Tripta Sood. It is thus, essential to determine as to what was the treatment being extended to Tripta Sood and whether such huge expenditure had actually been incurred on her medical treatment or not. He further argued that the petitioners cannot claim to suffer any prejudice on account of the evidence being led inasmuch as it is the positive case of the petitioners themselves that they had got Tripta Sood medically treated. Hence, they cannot possibly have any objection to the evidence being brought as he would only be determining the plea already taken by the petitioners in their defence. He further argues that the Investigating Agency was acting in collusion with the petitioners and has deliberately chosen not to produce the entire material and to collect the relevant evidence. The failure on the part of the investigating agency or the prosecution to proceed with the case by exercising proper care and caution cannot form the basis to deny an application under Section 311 Cr.P.C., the object of the provisions being to secure ends of justice and to determine the truth. The petitioners

by the respondent No.2 and as such they do not suffer any prejudice in an event the additional evidence is allowed. The defect of investigating agency cannot be cited as crystallizing any right in favour of an accused. It is further submitted that even though the precedent judgments hold that an order passed on an application under Section 311 Cr.P.C., is not a revisable order, however, respondent No.2 had approached the Sessions Court that had entertained the revision petition and had allowed the same. It would not advance the interest of justice to set aside the said order for a technical reason only to direct the respondent No.2 to file a fresh petition after a lapse of nearly 5 years under Section 482 Cr.P.C., and to seek re-determination of the same. He submits that as the jurisdiction of the High Court has already been invoked under Section 482 Cr.P.C., hence, in case the contention of the petitioner is to be accepted, still the High Court would be empowered to pass such appropriate orders as are necessary to secure ends of justice. The last contention of the respondent No.2 is not denied or disputed by the learned counsel appearing on behalf of the petitioners as well.

6. I have heard learned counsel for the parties and have gone through the records with their able assistance.

ANALYSIS

7. A perusal of the petition as well as the arguments advanced shows that the parties are in dispute as regards the withdrawal of the amounts from the account of the deceased-Tripta Sood. The question of succession and entitlement, if any, of the petitioners is a matter of defence which the trial Court shall examine in due course. The short question which comes up before this Court in the present case is as to whether the order

the revision against the order dated 18.03.2017 passed by the Judicial Magistrate was legal and whether this Court should exercise its power under Section 482 Cr.P.C., in case it is found that such additional evidence is germane to the adjudication of the controversy. The aspects regarding withdrawal of money by the petitioners as also the claim that they had secured the treatment for Tripta Sood are not in dispute. It is essential in the said background to advert to Section 311 Cr.P.C. The same is extracted as under:-

“311. Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or. recall and re- examine any person already examined; and the Court shall summon and examine or recall and re- examine any such person if his evidence appears to it to be essential to the just decision of the case.”

8. The said solutory provision has been incorporated in the Code of Criminal Procedure to enable the court to find out the truth and render a just decision. The aid of Section 311 Cr.P.C., should be invoked with the object of discovering relevant facts or obtaining proper proof of such facts and it must be used judiciously and not capriciously or arbitrarily as any such arbitrary or capricious exercise of the power may lead to undesirable results. Similarly the power in question cannot be used to fill up the lacuna by the prosecution or by the defence or; to the disadvantage of an accused or to cause prejudice to the defence of the accused or; to give an unfair advantage to the rival side. Further, additional evidence should also not be received as a disguise for retrial or to change the nature of the case against either of the parties. The Court examines the evidence under the Section,

neither to help the prosecution, nor to help the accused. It is done neither to fill up any gaps in the prosecution evidence, nor to give it any unfair advantage against the accused. The fundamental thing to be seen is whether the Courts think it necessary in the facts and circumstances of the case before it. The said power is to be exercised for valid reasons and ought to be exercised with caution and circumspection.

9. The said Section confers a power on the Court to summon material witnesses, if it appears to the Court to be essential. The reading of the Section shows that the duty has been cast upon the Court and such a jurisdiction is not dependent upon the same being set to motion by the prosecution alone. A criminal Court cannot be assigned a simpliciter role of an umpire to deal with only the material brought before it by the parties. Even though, it is not the normal duty of the Court to collect evidence, however, the same also does not mandate that the Court must remain dormant even when it is satisfied that ends of justice would warrant certain additional measures. The Court has been assigned role of an active player to step in where ends of justice require it to and the Court shall have ample power to conduct such enquiry as it deems fit to ascertain the truth.

10. It was held by the Hon'ble Supreme Court in the matter of ***Masalti vs State Of U. P AIR 1965 Supreme Court 2020***, that if the conditions of Section 311 Cr.P.C., are satisfied, the Court can call a witness not only on the application of either party, but also on its own motion. Punjab and Haryana High Court in, the matter of ***Hari Singh Vs. State of Haryana 2002 (3) Crimes 333***, held that where an application for summoning of witness is filed neither by APP nor by the complainant but by a third party who has no *locus standi* to apply, the same should be rejected.

The said proposition thus, affirms a right in favour of the complainant to move an application. A complainant is not considered as a rank outsider or a meddlesome interloper. The complainant would not be a third party to the proceedings and is entitled to move the Court. A decision taken on any such application cannot be held to be a decision which is without jurisdiction or authority in law. Hence, the submission of the petitioner that merely because the application had not been moved by the prosecution cannot be read as a prohibition upon the Court to exercise such a power. The said submission thus deserves to be rejected.

11. The next question which needs to be examined is whether the order allowing an application under Section 311 Cr.P.C., in question is an interlocutory order and whether a revision petition against the same is maintainable or not. The expression 'interlocutory order' has not been defined in the Code. Its meaning, as given in some of the dictionaries is extracted as under:-

<i>The New Lexicon Webster's Dictionary</i>	<i>Pronounced and arising during legal procedure, not final</i>
<i>Webster's Third New International Dictionary</i>	<i>Not final or definitive; made or done during the progress of an action</i>
<i>Wharton's Law Lexicon</i>	<i>An interlocutory order or judgment is one made or given during the progress of action, but which does not finally dispose of the rights of the parties e.g., an order appointing a receiver or granting an injunction, and a motion for such an order is termed an interlocutory motion.</i>
<i>Black's Law Dictionary</i>	<i>Provisional; temporary; not final. Something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy.</i>

12. The Hon'ble Supreme Court, in the matter of **State represented by Inspector of Police and others Vs. N.M.T Joy Immaculate 2004(3) R.C.R (Criminal) 322**, held as under:-

"9. Ordinarily and generally, the expression 'interlocutory order' has been understood and taken to mean as a converse of the term 'final order'. In volume 26 of Halsbury's Laws of England (Fourth Edition) it has been stated as under in para 504:

"..a judgment or order may be final for one purpose and interlocutory for another, or final as to part and interlocutory as to part. It is impossible to lay down principles about what is final and what is interlocutory. It is better to look at the nature of the application and not at the nature of the order eventually made. In general, orders in the nature of summary judgment where there has been no trial of the issues are interlocutory."

In para 505 it is said that in general a judgment or order which determines the principal matter in question is termed "final".

In para 506 it is stated as under:

"An order which does not deal with the final rights of the parties, but either (1) is made before judgment, and gives no final decision on the matters in dispute, but is merely on a matter of procedure, or (2) is made after judgment, and merely directs how the declarations of right already given in the final judgment are to be worked out, is termed "interlocutory". An interlocutory order, even though not conclusive of the main dispute, may be conclusive as to the subordinate matter with which it deals."

10. In **S. Kuppuswami Rao v. King, AIR 1949 FC 1**, the following principle laid down in **Salaman v. Warner, (1891) 1**

QB 734, was quoted with approval:

"If their decision, whichever way it is given, will, if it stands, finally dispose of the matter in dispute, I think that for the purposes of these rules it is final. On the other hand, if their decision, if given in one way, will finally dispose of the matter in dispute, but, if given in the other, will allow the action to go on, then I think it is not final, but interlocutory."

The test laid down therein was that if the objection of the accused succeeded, the proceeding could have ended but not vice versa. The order can be said to be a final order only if, in either event, the action will be determined.

*11. However, in **Madhu Limaye v. State of Maharashtra, AIR 1978 SC 47**, such an interpretation and the universal application of the principle that what is not a final order must be an interlocutory order was not accepted as this will render the revisional power conferred by section 397(1) nugatory. After taking into consideration the scheme of the Code of Criminal Procedure and the object of conferring a power of revision on the Court of Sessions and the High Court, it was observed as follows:*

"In such a situation, it appears to us that the real intention of the Legislature was not to equate the expression "interlocutory order" as invariably be converse of the words 'final order'. There may be an order passed during the course of a proceeding which may not be final in the sense noticed in Kuppuswami's case, AIR 1949 FC 1 (supra), but, yet it may not be an interlocutory order pure or simple. Some kinds of order may fall in between the two. By a rule of harmonious construction, we think that the bar in sub-section (2) of section 397 is not meant to be attracted to such kinds of intermediate order."

12 Same question has recently been considered in K.K.

Patel v. State of Gujarat 2000 (6) SCC 195. In this case a criminal complaint was filed against the Superintendent of Police and Deputy Superintendent of Police alleging commission of several offences under the Indian Penal Code and also under Section 147-G of the Bombay Police Act. The Metropolitan Magistrate took cognizance of the offence and issued process to the accused, who on appearance filed a petition for discharge on the ground that no sanction as contemplated by Section 197 Cr.P.C. had been obtained. The Metropolitan Magistrate dismissed the petition against which a revision was filed before the Sessions Judge, who allowed the same on the objection raised by the accused based upon Section 197 Cr.P.C. and also Section 161(1) Bombay Police Act, which creates a bar of limitation of one year. The revision preferred by the complainant against the order of discharge was allowed by the High Court on the ground that the order passed by the Metropolitan Magistrate rejecting the prayer of the accused to discharge them was an interlocutory order. In the appeal preferred by the accused, this Court after referring to Amar Nath v. State of Haryana 1977 (4) SCC 137, Madhu Limaye v. State of Maharashtra AIR 1978 SC 47 and V.C. Shukla v. State AIR 1980 SC 962 held that in deciding whether an order challenged is an interlocutory or not, as for Section 397(2) of the Code, the sole test is not whether such order was passed during the interim stage. The feasible test is whether by upholding the objections raised by a party, it would result in culminating the proceedings. If so, any order passed on such objections would not be merely interlocutory in nature as envisaged in Section 397(2) of the Code. It was further held that as in the facts of the case, if the objections raised by accused were upheld, the entire prosecution proceedings would have been terminated, the order was not an interlocutory order and consequently it was revisable.

13. *Section 167 Cr.P.C. empowers a Judicial Magistrate to authorise the detention of an accused in the custody of police.*

Section 209 Cr.P.C. confers power upon a Magistrate to remand an accused to custody until the case has been committed to the Court of Sessions and also until the conclusion of the trial. Section 309 Cr.P.C. confers power upon a Court to remand an accused to custody after taking cognizance of an offence or during commencement of trial when it finds it necessary to adjourn the enquiry or trial. The order of remand has no bearing on the proceedings of the trial itself nor it can have any effect on the ultimate decision of the case. If an order of remand is found to be illegal, it cannot result in acquittal of the accused or in termination of proceedings. A remand order cannot affect the progress of the trial or its decision in any manner. Therefore, applying the test laid down in Madhu Limaye's case (supra), it cannot be categorised even as an "intermediate order". The order is, therefore, a pure and simple interlocutory order and in view of the bar created by sub-section (2) of Section 397 Cr.P.C., a revision against the said order is not maintainable. The High Court, therefore, erred in entertaining the revision against the order dated 6.11.2001 of the Metropolitan Magistrate granting police custody of the accused Joy Immaculate for one day."

13. The said question also came up before this Court in the matter of **V. P. Gureja Vs. Jagdish Chander Raheja 1988 (2) R.C.R. (Criminal) 179**, and it was held as under:

" This revision petition raises two questions : One whether it is maintainable in view of the provisions of Section 397 (2) of the Code of Criminal Procedure and, two, whether inherent powers of this Court can be invoked to grant relief to the petitioner.

(3) Both the questions stated in the beginning of this order stand covered. This Court in Chander Bhan v. State of Haryana, 1979 C.L.R. 253, held :

(a) that order allowing or disallowing additional

evidence amounted to an interlocutory order and revision there against was barred in view of the provisions of section 397 (2) of the Code of Criminal procedure; and

(b) that inherent powers of the High Court under section 482 of the Code of Criminal Procedure could not be ordinarily invoked for setting aside such an order except in rarest cases of the abuse of the process of the Court.

4. In coming to the above conclusion. reliance was placed on Amar Nath and others v. State of Haryana and others, A.I.R. 1977 Supreme Court 2185, in which the Supreme Court observed :

"A harmonious construction of Ss. 397 and 482 would lead to the irresistible conclusion that where a particular order is expressly barred under S. 397 (2) and cannot be the subject of revision by the High Court, then to such a case the provisions of S. 482 would not apply. It is well settled that the inherent powers of the Court can ordinarily be exercised when there is no express provision on the subject matter. Where there is an express provision, barring a particular remedy, the Court cannot resort to the exercise of inherent powers".

14. Similarly in the matter of **Sethuraman Vs. Rajamanickam** **2010 (5) R.C.R. (Criminal) 512**, the Hon'ble Supreme Court has held as under:

"4. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C. The Trial Court, in its common order, had clearly mentioned that

the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and other on the application under Section 311 Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.”

15. This Court in the matter of **Baba Kashmira Singh Vs. Mahindra & Mahindra Financial Services Ltd. 2014(15) R.C.R. (Criminal)150**, has held as under:-

“23. This Court in Sanjay v. State of Haryana, 2005 Cri LJ 287, also held that an order passed on an application under Section 311 of the Code is an interlocutory order and hence revision is not maintainable against such an order.”

16. Further, in the matter of **Uppal Credit and Investment Pvt. Ltd. Vs. Ashwani Kumar 2016 (2) R.C.R. (Criminal) 684**, it was held by this Court that where the order cites and touches the important rights or liabilities of the parties, it cannot be said to be an interlocutory order and a revision against such an order shall be maintainable and held that where an application was moved under Section 311 Cr.P.C., for seeking examination of two witnesses on the grounds of being conversant with the facts and essential for judicious determination of the dispute, the dismissal of such an

application by the Magistrate was held to be not an interlocutory order as the said denial robbed the complainant of a chance to put forth his case in the right perspective and in not doing so, a material prejudice is caused to him having the potential to lead to an unfavourable situation in its ultimate which is incapable of rectification at a subsequent stage at a higher court.

17. A perusal of the judicial precedents shows that intermediate order or an order which finally decides a proceeding in a case, would be subject to a revisional jurisdiction where the appellate remedy is not prescribed in the statute. However, when the order does not finally decide any issue or right to which a party claims to be entitled in a proceeding, such an order would normally fall as an interlocutory order & would not be subject to the revisional jurisdiction of the higher Court.

18. It would thus be essential for a party to establish final determination of its right or an issue through the impugned order and to establish material prejudice. A mere unsubstantiated plea of prejudice does not amount to a material prejudice. The prejudice claimed should reflect material bearing on the respective plea raised by the party and thus impacting the final outcome of the case.

19. The counsel for the respondent having fairly conceded that the order in dispute is an interlocutory order, this Court would not be required to examine the same any further or to record any finding in this regard.

20. The same now leaves this Court to examine as to whether it would be essential to allow the leading of the evidence to secure ends of justice by taking aid of its powers under Section 482 Cr.P.C.

stepped into the witness box as PW-3 and his examination-in-chief was deferred for producing the medical record pertaining to treatment of Tripta Sood at Max Hospital, Mohali ; CMC Chandigarh ; Sanga Hospital, Ropar ; Sadbhawna Hospital, Patiala as well as at PGIMER, Chandigarh.

22. The same thus takes this Court to the application under Section 311 submitted by the respondent No.2. In the said application, respondent has pleaded to lead evidence to produce the entire record of treatment of Tripta Sood. The argument raised is that the treatment extended could not have cost Tripta Sood to the extent of the amount withdrawn from her account.

23. The said argument though seems attractive but has to be tested on legal principles. The petitioners in the present case have been charged for offence under Section 420/34 IPC. It is not the case of the respondent No.2 that he had been induced to deliver some property under a pretext or on an assurance that was known to the accused to be false. There is no complaint by Tripta Sood of being cheated and there is no claim that any amount was paid by the respondent No.2 on any such assurance. He also does not claim that he had any prior or preferential right to succeed to the property of Tripta Sood and has thus been denied of his right of succession. Besides, it is also not pleaded or argued that the entire defence case is that the amount was used solely and exclusively to meet the hospital expenses. There would be various payments and expenditure that may have been encashed during the period. There is also no charge of forging of any documents against the petitioner, in that any hospital record is false.

24. The respondent No.2 cannot by producing the said documents

establish that Tripta Sood was cheated or had issued cheques under a false assurance, considering that it is also not pleaded by the respondent No.2 that he was present when Tripta Sood signed the cheques and she was under the influence of any assurance given by the petitioners.

25. The respondent No.2, cannot claim to be materially prejudiced by failure to lead medical report in additional evidence as the said record would at best be a corroborative evidence once the pre-requisites of cheating as defined under Section 415 IPC are satisfied. Merely, because the sum total of the hospital bills does not total up to the sum withdrawn would not by necessary inference prove that Tripta Sood was cheated. Such a conclusion would not be well founded in law.

26. The counsel for the respondent No.2 has not been able to refer to any such pleading raised by him before the Court or in the application and has also not referred to any such material during the course of hearing of the present petition. There is thus no basis for this Court to presume that examination of such evidence is essential to serve the ends of justice or that failure to lead such evidence shall cause material prejudice to the respondent No.2. A mere possibility of some remote prejudice on the basis of construction of evidence and the possible inference that may flow from the same would not be a ground to conclude material prejudice.

27. Respondent No.2 has also failed to demonstrate as to how failure to adduce the said documents shall foreclose the case of the prosecution especially when there is no denial of the fact that the deceased Tripta Sood was administered medical treatment. It is also not coming forth from the application moved on behalf of respondent No.2 that the deceased

Tripta Sood was not residing with the petitioners and that no medical treatment was ever extended to her by them. It is also not stated in the application that the respondent No.2 was providing medical treatment to the deceased. The case of the respondent No.2 was thus deficient on numerous counts that have neither been urged, displayed, pleaded, argued or discussed by the Court. As an active participant, a criminal Court has to satisfy itself about the necessity of the evidence sought to be adduced.

28. Hence, while holding that the Court would have jurisdiction under Section 482 Cr.P.C., to pass appropriate orders against an order passed on an application under Section 311 Cr.P.C., however, finding that there is no material produced on record to ascertain as to how the medical record was necessary for a just decision of the case, the present petition is without merit. The Court cannot make up for the lacuna which is an inherent defect in the case of the prosecution. The application fails to demonstrate as to how the failure to produce such documents and to summon witnesses in support thereof would finally defeat the prosecution case.

29. The instant petition is thus, allowed and the order dated 07.09.2017 passed by Sessions Judge, Rupnagar, is set aside.

(VINOD S. BHARDWAJ)
JUDGE

28.03.2022
anil

Whether speaking/reasoned :	Yes/No
Whether reportable	Yes/No