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

DECIDED ON: 05.09.2022

(I) CRM-M-40371-2022

KAMAL TEWARI

.....PETITIONER

VERSUS

M/S COLOR 9 PRODUCTIONS LLP AND ORS

.....RESPONDENTS

(II) CRM-M-40405-2022

KAMAL TEWARI

.....PETITIONER

VERSUS

M/S COLOR 9 PRODUCTIONS LLP AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Animesh Sharma, Advocate
for the petitioner(s).

SANDEEP MOUDGIL, J (ORAL)

By this common order, I intend to dispose of the aforesaid two petitions as they have arisen out of the same order.

The instant petitions have been filed under Section 482 Cr.P.C. for quashing of the orders dated 05.08.2022 (Annexure P-1), passed by the learned Judicial Magistrate, 1st Class, Chandigarh in both the petitions, dismissing the application under Section 311 Cr.P.C. for summoning additional witnesses, in two separate complaints, viz., Complaint No.10307

of 2017 and Complaint No.10309/2017.

Learned counsel for the petitioner(s) submits that the application under section 311 Cr.P.C. for summoning of persons namely Concerned Clerk/Manager from Yes Bank, Sector 9-C, Chandigarh; concerned Clerk/Manager from Andhra Bank; Pankaj Batra, Director of film "Sajjan Singh Rangurt"; Jyotika Coordinator of the aforesaid film as additional witnesses was filed on 02.03.2020. He further submits that the statement of accused under Section 313 Cr.P.C., has been recorded on 15.10.2019. His assertion is that no prejudice would be caused to the respondents. Learned counsel for the petitioner(s) undertakes to complete the evidence of the above said witnesses on the date fixed by the trial Court.

He relies upon the judgment of the Apex Court rendered in the case of '*Rajaram Prasad Yadav versus State of Bihar and Another*', (2013), 14 SCC 461, wherein it has been observed that the paramount requirement of Section 311 Cr.P.C., is just decision and for that purpose the essentiality of a person to be recalled and re-examined has to be ascertained. To put it differently, while such a widest power is vested with the Court, it is needless to state that exercise of such power should be made judicially and also with extreme care and caution.

The facts of the present case, though crystallizes that in case the petitioner is not allowed to summon the aforesaid witnesses, it would render the trial inconclusive and speculative presentation of facts, the ends of justice would be defeated.

In the light of the aforesaid facts and circumstances, the petitioner is bound down to call the above named witnesses along with the

record whatsoever is to be proved before the trial Court on the next date of hearing. The case is fixed for tomorrow for defence evidence and the court concerned is directed to adjourn the matter for some other date. The afore-said opportunity granted to the petitioner shall be treated as last and final opportunity. No adjournment on behalf of the petitioner(s) shall be entertained.

Accordingly the afore-said petitions are disposed of.

A photocopy of this order be placed on the file of other connected case.

05.09.2022

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>