

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

254

CRM-M-45834-2022 (O&M)
Date of decision: 15.12.2022

RAMBHINDER SINGH CHAHAL

....Petitioner(s)

Versus

APRAJITA TYAGI AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rahul Vijay Singh Chugh, Advocate
for the petitioner.

Mr. J.K. Singla and Ms. Shivani Singla, Advocates
for the respondent Nos. 1 and 2.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing of the impugned order dated 24.08.2022, Annexure P-4 vide which the application under Section 311 CrPC filed by the petitioner has been declined by the learned trial Court in Criminal Complaint No. NACT/55/2021 dated 05.03.2021.

Learned counsel for respondent Nos. 1 and 2, who are accused in the complaint filed at the hands of the complainant-petitioner appears and has produced the copy of *zimni* orders passed by the trial Court dated 07.12.2022, as per which the defence evidence was closed by accused-respondent Nos. 1 and 2 and sought adjournment, however, the arguments at length were heard of the learned counsel for the accused and the case was listed for 08.12.2022, on which date, adjournment was again sought by the learned counsel for the complainant. Thus, the case was listed for 09.12.2022, as per which the case was adjourned to 16.12.2022 for arguments by complainant, on the request made for adjournment

on the ground that the order passed by this Court has yet to be uploaded.

Heard.

Notice of motion was issued on a specific query to which learned counsel for the petitioner submitted that defence evidence has not yet been closed, however, the *zimni* order shows otherwise that it was already closed on 07.12.2022.

Faced with the submissions of the learned counsel for respondent No.2 and the *zimni* orders, learned counsel for the petitioner submits that the statement was made on 08.12.2022 before this Court with regard to the defence evidence having not been closed on receipt of instructions from his client to that effect. It is apposite to refer to the order passed by the learned trial Court while dismissing the application, which reads thus:-

After hearing learned Counsel for the parties and having gone through the record carefully, I found no merits in the application as the complainant has no right to produce any document or lead evidence after appearance of the accused, in terms of the procedure laid down Under Section(s) 251 Criminal Procedure Code and in view of the law laid down by the Honorable Supreme Court in/Indian Bank Association & Ors. Vs. Union of India & Ors., (2014) 5 SCC 590/ After appearance of the accused, on the notice issued by the Court, the complainant is not having any opportunity to lead any evidence and it is for the accused to produce evidence in his favour to prove his innocence. After evidence of the accused, the Court has to pronounce the judgment in accordance with the evidence on the file and as such, the application filed by the complainant is found misconceived and is, therefore, rejected, having been filed immediately after cross-examination of the complainant was completed. On request, adjourned to 07.09.2022 for DW's if any, or for final arguments

In the case of **Swapan Kumar Chatterjee Vs. Central Bureau of Investigation**, (2019) 14 SCC 328 Hon'ble The Supreme Court has held as under:-

"11. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this section to even recall witnesses for re-examination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law."

The petitioner has also not been able to demonstrate any valid reason before this Court to justify the application made by him.

In view of the above, this Court finds no illegality or perversity calling for any intervention in the impugned order, as a sequel thereto, the present petition, being bereft of merit is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

December 15, 2022

M.Kamra /S.Sharma(syr)

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