

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112-CRR-639-2023

Date of Decision: 09.03.2023

M/S R.K.ENGG. WORKS AND ANR.

... Petitioners

VS.

ANIL KUMAR GUPTA

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. BS Baath, Advocate for the petitioners

Sandeep Moudgil, J. (Oral)

This criminal revision petition is directed against the order dated 02.02.2023 passed by JMIC, Jalandhar vide which the application under Section 311 CrPC moved by the petitioner-accused for permission to recall the complainant for cross-examination, has been dismissed.

Learned counsel for the petitioners contends that the documents Ex.CE to CH which was tendered by the complainant in his statement during examination-in-chief, needs to be put to the complainant by the petitioner in the cross-examination and, therefore, sought recalling by way of instant application under Section 311 CrPC. The application moved by the petitioner has been declined by the court below without any justifiable reason inasmuch as, it has not recorded any reason as to what prejudice would be caused to the other side, in case, the petitioner is allowed to be further put to examination-in-chief while observing itself that Ex.CE to CH are relating to the business transactions between the parties.

Learned counsel for the petitioners has laid stress on this issue arguing that the documents are relating to business transaction which would clinch the issue and are required for proper adjudication of the case pending

before the trial court. He has also strengthened his case stating that the defence is yet to start its evidence and thereafter, the case would be listed for arguments.

Considering the aforesaid facts, since the case is in the midst of evidence, i.e. closure of evidence of PWs, this Court deems it appropriate to grant another opportunity to the petitioners for further examination-in-chief as the accused wants to cross-examine him on the said documents considering the submissions made that the same would be of material importance for just adjudication of the instant case during the course of trial. There is ample opportunity for the defence which is yet to lead evidence and thereafter, the case is to be argued on the basis of evidence led by both the parties.

In the light of the aforesaid discussion, this petition is disposed of with a direction that the petitioner be granted one final opportunity to cross-examine the complainant with the documents as stated in the application whatsoever, subject to payment of cost of Rs.5000/- to be deposited in the Punjab and Haryana High Court Lawyers' Welfare Fund.

Disposed of.

09.03.2023

V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No