

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

CRM-M-48790 of 2019

Date of Decision:11.01.2023

Dalbir

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kuldeep Khandelwal, Advocate for the petitioner.
Mr. Vishal Malik, DAG, Haryana.
Mr. Ajay Kumar, Advocate for respondents No.2 to 4 -
accused.

DEEPAK GUPTA, J.

By way of this petition, filed under Section 482 Cr.P.C., quashing of the order dated 02.11.2019 (Annexure P.5) passed by learned Additional Sessions Judge, Jind, is sought by the petitioner- complainant, whose application under Section 311 Cr.P.C for examining the witness, namely, Rajesh Jain son of Sant Lal, in a criminal complaint titled **Dalbir Vs. Mahesh Singla and another** (Annexure P.1) was dismissed. Complaint was filed in 2015. Rajesh Jain son of Sant Lal was neither named in the complaint to be the eye witness nor he was cited as a witness in the complaint nor he was examined in preliminary evidence. However, he was sought to be examined by the complainant- petitioner in the pre-charge evidence, by moving the application under Section 311 Cr.P.C.

Having heard learned counsel for the petitioner and perused the paper book, I find absolutely no illegality in the impugned order dated 02.11.2019 passed by the learned Additional Sessions Judge, Jind. Once Rajesh Jain son of Sant Lal was not specifically named to be witness in the complaint nor was cited as such, there can be no question of permitting him to be examined in the pre-charge evidence.

Learned counsel for the petitioner has referred to Vishal Garg Vs. The State of Madhya Pradesh and others, 2022 LiveLaw (SC) 662, in order to contend that application under Section 311 Cr.P.C cannot be dismissed merely on the ground that it will lead to filling up lacunae of prosecution's case. There can be no dispute to the legal proposition as above, but in the present case, it is not a question of filling of the lacunae and rather the person concerned sought to be examined was not even cited as a witness.

As such, finding no merit in the present revision, the same is hereby dismissed.

January 11, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No