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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CRR-2745-2023  
Date of Decision: 30.11.2023

Veerpal ..... Petitioner

Versus

State of Haryana and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.S.Sahu, Advocate,  
for the petitioner.

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JASGURPREET SINGH PURI, J. (ORAL)

1. The present revision petition has been filed for setting aside the order dated 31.10.2023 passed by learned Judicial Magistrate Ist Class, Ratia whereby the application moved by the respondent under Section 311 Cr.P.C. has been allowed without appreciating the facts and evidence available on record.

2. Learned counsel for the petitioner submitted that vide impugned order dated 31.10.2023, the application filed by the complainant under Section 311 Cr.P.C for examining the complainant witness to prove the telephonic conversation dated 05.01.2022, was allowed by the learned trial Court and one opportunity was granted to the complainant to examine the aforesaid witness. He further submitted that at this stage when the prosecution evidence is closed then such an application would not lie and even otherwise also the aforesaid conversation is of 05.01.2022 and it was well within the knowledge of the complainant with regard to the aforesaid

recording and thereafter even an application was also filed Section 311-A Cr.P.C. but no such plea was taken in that application and now suddenly the aforesaid application has been filed, and therefore, the learned trial Court ought not have interfered and granted an opportunity to the complainant to examine the aforesaid witness.

3. I have heard the learned counsel for the petitioner.

4. The dispute in the present case is pertaining to Section 138 of the Negotiable Instrument Act. The application which has been moved by the complainant is that there is one conversation between the complainant and the accused dated 05.01.2022 which was recorded in the mobile of the son of the complainant and in which the accused had already admitted to the liability of paying an amount of Rs.5 lacs. The aforesaid conversation was transferred into pen drive and a certificate under Section 65-B of the Indian Evidence Act was also attached with the application. The case of the complainant was that the aforesaid conversation was the best evidence against the accused persons and even otherwise also the scope of Section 311 of the Code of Criminal Procedure is very vast and large and in case the trial Court comes to the conclusion that it goes to the roots of the controversy then the provision of Section 311 Cr.P.C can be invoked at any stage. The learned trial Court while hearing the application in detail and also referring to various judgments on the issue observed that it is the fit case where Section 311 of the Code of Criminal Procedure should be invoked because the underlying idea of Section 311 Cr.P.C. is that there may not be failure of justice on account of mistake of either party in bringing the valuable evidence on record or leaving any ambiguity in the statement of a

witness examined from either side.

5. A perusal of the aforesaid impugned order would show that the learned trial Court has exercised its power under Section 311 Cr.P.C. cogently while dealing with the scope of Section 311 Cr.P.C. The mere fact that on earlier occasion, the complainant had filed application under Section 311 Cr.P.C. and did not raise the issue which cannot deprive the complaint to file an application during the pendency of the trial under Section 311 Cr.P.C for the aforesaid purpose. Even otherwise also only one opportunity has been granted to the complainant to examine the aforesaid witness and the application was allowed subject to cost of Rs.500/- to be deposited in SDLSA, Ratia.

6. In view of the above, this Court is of the view that the scope of interference in a revision petition is restricted and this Court does not find any infirmity or illegality in the order dated 31.10.2023 passed by the learned trial Court, since it is a settled law that Section 311 Cr.P.C is very wide and at any stage the same can be invoked if the Court is of the view that it is material for just adjudication of the case. The proving of any transcript or a recording in accordance with law which affects the merits of the case should be permitted.

7. Consequently, finding no merit in the present revision, the same is hereby dismissed.

30.11.2023

*Bhumika*

(JASGURPREET SINGH PURI)  
JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable:        | Yes/No |