

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

125

CRM-M-2918-2024
Date of decision: 19.01.2024

BIBI CHHAN KAUR COLLEGE OF NURSING, SARDULGARH, MANSA,
PUNJAB

....Petitioner

Versus

SMT. KAVITA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Raj Kaushik, Advocate
for the petitioner.

KULDEEP TIWARI. J.(Oral)

The instant petition has been filed, under Section 482 Cr.P.C, for quashing of the order dated 01.09.2023 (Anneuxre P-9), passed by the learned trial Court concerned, in complaint No.NACT/10/2019, pending before the Court of Additional C.J. (S.D), Sardulgarh, and the order dated 08.01.2024 (Annueuxure P-11), passed by the learned Additional District Judge, in Criminal Revision No.28 dated 13.09.2023.

The order dated 01.09.2023, has caused grievance to the petitioner, whose application as preferred under Section 311 Cr.P.C, was dismissed by the learned trial Court concerned. The petitioner who is a complainant, filed the instant petition under Section 482 Cr.P.C, seeking quashing of the order (supra).

Learned counsel for the petitioner submits that as per the provision of Section 311 Cr.P.C, it is the bounden duty of the Court concerned to summon, examine or recall and re-examine any such person, if the evidence appears to be essential for the just decision of the case.

This Court has examined the application preferred by the petitioner-complainant, as well as the impugned order, passed by the learned trial Court concerned. It is apt at this stage to reproduce the extract of the application, which is essential for adjudication of this matter, and the same reads as under:-

"It is submitted in the application that the evidence of the complainant had been closed on 18.8.2023. However, Apology letter, resolution letter dated 28.2.2014, resolution letter dated 30.10.2018 and dated 13.3.2022 were yet to be produced during the evidence of complainant and now the complainant intends to produce the same. Thus, prayed for allowing the present application."

The perusal of the above grounds reveal that the only purpose of filing of this application under Section 311 Cr.P.C, is for placing on record certain additional documents. The application does not disclose the following reasons:-

- 1) The reason for not producing any documents, at the stage of complainant evidence.
- 2) The application does not reveal the relevancy of the document, for the just decision of the complaint.
- 3) The application also does not reveal, whether, these documents have ever been disclosed or relied upon, in the allegations, levelled in the complaint.

Whereas, on the other hand, a perusal of the complaint reveals that there is no whisper, with regard to these documents in the main complaint, instead, this application has been filed, at the stage of defence evidence, and especially when the evidence of the complainant was closed way back on 18.08.2023.

Apart from the maintainability of the application, whether, the scope of Section 311 Cr.P.C can be extended for giving permission to any of the party to

the trial, to place additional evidence.

This Court at this stage, is not considering the scope and object, because leaving this to be adjudicated in any other proper case. Since the application is bereft of any relevant pleadings, the learned trial Court concerned, has rightly dismissed the said application. Further it is reflected from the impugned order that sufficient opportunities were granted to the complainant to adduce evidence, and despite availing all opportunities, neither this document was placed on record, nor any reasons have been assigned in the application for bringing this document on record.

Since the application was vague and without any apt reasons, the learned trial Court concerned, has rightly dismissed the said application. The order passed by the Revisional Court concerned, though has been assailed in present petition, however, the counsel for the petitioner fairly submits that the same remedy was not available to the petitioner. Therefore, the order passed by the Revisional Court concerned, *qua* the maintainability is legal, and therefore, he does not want to challenge that order. Further, learned counsel for the petitioner was unable to point out any perversity or illegality in the impugned order. Therefore, the impugned order is upheld and the instant petition is ordered to be dismissed.

19.01.2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No