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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-3892-2024 (O&M)  
Date of Decision : 25.01.2024

Amandeep Rani

...Petitioner

VERSUS

State of Punjab & Ors.

...Respondents

**CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Amandeep Saini, Advocate for the petitioner.

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**SUDEEPTI SHARMA, J. (Oral)**

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the impugned order dated 20.12.2023, vide which the trial Court has dismissed the application filed by the petitioner under Section 311 CPC to summon the witness i.e. Dr. Kanwaljit Singh, M.O, Singhpur CHC, Nurpurbedi.

2. Learned counsel for the petitioner vehemently argued that the prosecution could not prove MLR without summoning the doctor. Learned counsel for the petitioner has placed reliance upon **Satbir Singh Vs. State of Haryana & Ors. 2023(3) Law Herald (SC) 2150**, wherein the Apex Court has held as under:-

*“9. Section 311 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "CrPC") has engaged this Court's attention before. We will advert to a few decisions of*

*recent vintage. While overturning an order of the High Court allowing an application for recall of a witness, which was rejected by the trial Court, this Court held as under, in **Ratanlal v. Prahlad Jat, (2017) 9 SCC 340:***

*[311. Power to summon material witness, or examine person present.-Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.]*

*17. In order to enable the court to find out the truth and render a just decision, the salutary provisions of Section 311 are enacted whereunder any court by exercising its discretionary authority at any stage of inquiry, trial or other proceeding can summon any person as witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person already examined who are expected to be able to throw light upon the matter in dispute. The object of the provision as a whole is to do justice not only from the point of view of the accused and the prosecution but also from the point of view of an orderly society. This power is to be exercised only for strong and valid reasons and it should be exercised with caution and circumspection. Recall is not a matter of course and the discretion given to the court has to be exercised*

*judicially to prevent failure of justice. Therefore, the reasons for exercising this power should be spelt out in the order.*

18. *In Vijay Kumar v.State of U.P.[Vijay Kumar v.State of U.P., (2011) B SCC 136: (2011) 3 SCC (Cri) 371: (2012) 1 SCC (L&S) 2401, this Court while explaining scope and ambit of Section 311 has held as under: (SCC p. 141, para 17)*

*"17.Though Section 311 confers vast discretion upon the court and is expressed in the widest possible terms, the discretionary power under the said section can be invoked only for the ends of justice. Discretionary power should be exercised consistently with the provisions of [CrPC] and the principles of criminal law. The discretionary power conferred under Section 311 has to be exercised judicially for reasons stated by the court and not arbitrarily or capriciously."*

19. *In Zahira Habibullah Sheikh (5) v. State of Gujarat (Zahira Habibullah Sheikh (5) v. State of Gujarat, (2006) 3 SCC 374: (2006) 2 SCC (Cri) 8), this Court has considered the concept underlying under Section 311 as under: (SCC p. 392, para 27)*

*"27. The object underlying Section 311 of the Code 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 ambiguity in the statements of the witnesses examined from either side. The determinative factor is whether it is essential to the just decision of the case. The section is not limited only for the benefit of the accused, and it will not be an improper exercise of the powers of the court to summon a witness under the section merely because the evidence supports the case of the prosecution and not that of the accused. The section is a general section which applies to all proceedings, enquiries and trials under the Code and empowers the Magistrate to issue summons to any witness at any stage of such proceedings, trial or enquiry. In Section 311 the significant expression that occurs is "at any stage of any inquiry or trial or other proceeding under this Code". It is, however, to be borne in mind that whereas the section confers a very wide power on the court on summoning witnesses, the discretion conferred is to be exercised judiciously, as the wider the power the greater is the necessity for application of judicial mind."*

3. Notice of motion.

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4. On the asking of the Court, Ms. Kanica Sachdeva, AAG, Punjab, accepts notice and submits that the case is now fixed for final judgment on 29.01.2024.

5. I have heard learned counsel for the petitioner; perused the order impugned herein and gone through the judgment cited by the learned counsel for the petitioner.

6. Hon'ble Apex Court in the case of **Ratanlal (supra)** has observed that the object of the provision as a whole is to do justice not only from the point of view of the accused and the prosecution but also from the point of view of an orderly society. This power is to be exercised only for strong and valid reasons and it should be exercised with caution and circumspection and in the case of **Zahira Habibullah Sheikh (Supra)** has held that it is however to be borne in mind that whereas the section confers a very wide power on the Court on summoning witnesses, the discretion conferred is to be exercised judiciously, as the wider power the greater is the necessity for application of judicial mind.

7. A perusal of the impugned order dated 20.12.2023 shows that it is well reasoned since it has been observed in para No.4 that the case was registered against the accused in 2016 and the charges were framed on 12.06.2017 and almost after 07 years, the application under Section 311 CrPC has been moved.

8. In view of the statement made by the learned State counsel and after perusal of the above order, this Court finds no infirmity in the

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impugned order dated 20.12.2023, passed by the learned lower Court. The present petition is dismissed accordingly.

9. Pending applications, if any, also stand disposed off.

January 25, 2024  
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(SUDEEPTI SHARMA)  
JUDGE

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No