

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-7624-2024 (O&M)
Date of decision: 14.02.2024

Gurjit Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present petition petition has been filed by the petitioner under Section 482 of Cr.P.C. seeking setting aside the order dated 24.01.2024 (Annexure P-4), passed by the Judicial Magistrate First Class, Jalandhar, in case titled as State vs. Tejinder Singh, arising out of FIR bearing No. 59 dated 05.10.2017, under Sections 406, 498-A, 420 and 34 of IPC at Police Station Women Cell, District Jalandhar, whereby an application filed by the petitioner under Section 311 of Cr.P.C. has been dismissed.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the petitioner had got registered aforementioned FIR against her husband Tejinder Singh and his family members, who are impleaded as private respondent in this petition. After completion of necessary investigation and usual formalites, *challan* was presented in the

Court and the trial is going on. However, the petitioner, who is complainant of the aforesaid FIR, had moved an application under Section 311 of Cr.P.C. for summoning a witness from Ajit Punjabi newspaper to prove an advertisement, which was published in the said newspaper on 23.08.2015. However, the trial Court has dismissed the said application by passing the impugned order. Hence, the present petition.

3. Learned counsel for the petitioner has argued that respondent No. 2 to 4, who are accused in the aforementioned FIR, had played fraud with the petitioner by giving an advertisement on 23.08.2015 in the said newspaper. During the course of investigation, a letter was written by the Investigating Officer to the office of said newspaper, in response to which, it was informed by the official of the newspaper that said advertisement was given by respondent No.. 2/Tejinder Singh. Although, during the course of trial, the prosecution has examined an official from the office of the said newspaper but due to inadvertence, the aforesaid advertisement could not be brought on record and proved. It is further argued that aforesaid piece of evidence is a necessary evidence to bring home the guilt of the accused persons and it will not prejudice the right of defence of the accused persons. It is, therefore, prayed that the present petition deserves to be allowed and the impugned order deserves to be set aside.

4. I have heard learned counsel for the petitioner and have also gone through the record.

5. A perusal of the application, filed by the petitioner under Section 311 of Cr.P.C., shows that it is nowhere mentioned that as to which particular witness, he wanted to summon to prove the said advertisement.

Even there is no mention in her application as to the proposed newspaper publication, which was sought to be proved by her, was pertaining to which particular date. It is relevant to mention here that the FIR pertains to the year 2017 and the trial is not yet concluded. A perusal of the impugned order shows that this was the third application moved by the petitioner under Section 311 of Cr.P.C. and her earlier two applications, were dismissed by the trial Court on 25.07.2023 and 31.10.2023, respectively. This act of the petitioner points out towards the fact that she is playing delaying tactics to protract the trial and keeping the accused persons under the agony of trial as the case is now at the stage of defence evidence. The trial Court has rightly dismissed the application in question by passing a well reasoned order. It is well settled proposition of law that an application under section 311 Cr.P.C must not be allowed only to fill up a lacuna in the case of the prosecution, or of the defence or to give an unfair advantage to the opposite party. In ***Swapan Kumar Chatterjee vs. Central Bureau of Investigation, 2019 (2) Scale 654***, Hon'ble Supreme Court has held that the power conferred under Section 311 Cr.P.C. should be invoked by the Court only to meet the ends of justice and for strong and valid reasons and it should be exercised with great caution and circumspection.

6. Accordingly, finding no illegality or infirmity in the impugned order passed by the trial Court, the present petition is dismissed.

14.12.2023
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No