

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.202

CRM-M-11864-2014
Date of decision:01.02.2024

Ramesh Kumar Jain

...Petitioner

Versus

Sanmati Vimal Jain Public School, Jagraon and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.Vivek Jain, Advocate for the petitioner.

Mr. Chanakya Batta, Advocate for respondent No.1.

N.S. SHEKHAWAT, J.

1. The Petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 15.11.2013 (Annexure P-1) passed by Judicial Magistrate, 1st Class, Ludhiana, whereby an application under Section 311 Cr.P.C., filed by respondent No.1, has been ordered to be allowed.

2. I have heard learned counsel for the parties and perused the record.

3. Both the learned counsel for the parties have agreed that while allowing the present application, the trial Court had not recorded any valid and detailed reasons for allowing the said application and the impugned order may be set aside on this short ground alone, and the trial Court may be directed

to decide the application afresh, by taking into consideration the submissions from both the sides.

4. I have considered the submission made by learned counsel for both the parties.

5. Although Section 311 Cr. P.C. confers wide jurisdiction on the Court to summon and examine any witness at any stage of proceeding, but the same has to be exercised with utmost caution and care. The power under Section 311 Cr.P.C. cannot be invoked in a routine manner and sound reasons have to be recorded, while allowing such application. Apart from that, the trial Court is also bound to examine that evidence, which is sought to be produced by way of invocation of the provision of Section 311 Cr.P.C. The same shall be essential to the just decision of the case and that should be determinative factor, while allowing such an application.

6. From perusal of the impugned order, it is apparent that the trial Court had allowed the application in question without mentioning any detailed reasons and it has not been mentioned as to how the evidence sought to be produced by way of application under Section 311 Cr.P.C. was essential to the just decision of the case. Thus, it is always advisable for the trial Court to exercise the discretionary power by recording detailed reasons and after affording ample opportunities of hearing to both the sides, in light of the principles enunciated by Hon'ble Supreme Court.

7. In view of the above discussion, the present petition is allowed. Consequently, the order dated 15.11.2013 (Annexure P-1) passed by Judicial Magistrate, 1st Class, Ludhiana is set aside and trial Court is directed to

decide the application under Section 311 Cr.P.C. afresh, after affording opportunity of hearing to both the sides.

8. Since, the complaint (Annexure P-2) was filed in the present case on 30.01.2004, the trial Court is directed to conclude the trial expeditiously, preferably within a period of one year from today.

9. Pending application(s), if any, shall also stand disposed of, accordingly.

(N.S. SHEKHAWAT)
JUDGE

01.02.2024
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO