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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15211-2024
Date of decision: 02.04.2024

Sukhpal Singh ...Petitioner

Versus

Jarnail Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Namit Sharma, Advocate for the petitioner.
(Legal Aid Counsel).

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of order dated 29.01.2024 Annexure P-1 whereby an application filed by the petitioner under Section 311 Cr.P.C. seeking permission to further cross-examine complainant/respondent Jarnail Singh, has been dismissed by the Court of Judicial Magistrate, Ist Class, Sangrur.
2. The counsel for the petitioner submits that complainant/respondent filed false criminal complaint titled Jarnail Singh Vs. Sukhpal Singh under Section 138 NI Act wherein the petitioner was summoned as an accused and notice of accusation was served to which the petitioner pleaded not guilty and then complainant/respondent Jarnail Singh was examined in chief and also cross-examined. However, certain material questions were not put to Jarnail Singh on behalf of petitioner in his cross-examination. It is further submitted that in order to further cross-examine

Jarnail Singh an application Annexure P-2 was filed by the petitioner under Section 311 Cr.P.C. but the same was declined by the learned trial Court vide order dated 29.01.2024 Annexure P-1, in a mechanical manner. The counsel for the petitioner further submits that the learned trial Court is having wide powers under Section 311 Cr.P.C. to advance the cause of justice. It is further submitted that the impugned order deserves to be set aside being not passed as per the settled position of law. In support of his contentions, the counsel for the petitioner has placed reliance on decision of this Court in ***Neelam Vs. Veena 2024 (1) RCR Criminal 727***.

3. I have considered the submissions made by counsel for the petitioner.

4. It is well settled that the power conferred under Section 311 Cr.P.C. should be invoked by the Court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The Court has vast power under this Section to even recall witnesses for further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the Court is of the view that the application has been filed as an abuse of the process of law.

5. Application Annexure P-2 filed by the petitioner under Section 311 Cr.P.C. is vague. Nothing has been mentioned in the said application as to what material aspect was left and not put to complaint/respondent Jarnail Singh at the time of his cross-examination by petitioner/his counsel. Even today, the counsel appearing on behalf of the petitioner submitted that as

per his instructions some call detail records remain to be put to the complainant/respondent Jarnail Singh and permission is being sought to further cross-examine the witness by putting him aforesaid call detail records. However, the counsel for the petitioner has failed to provide any further detail of the said call detail records and also failed to satisfy this Court that the said evidence is necessary to the just decision of the case. In the given circumstances, this Court is of the view that petitioner filed application under Section 311 Cr.P.C. just to delay the proceedings in the trial and the trial Court rightly dismissed the same. The facts of the case law referred by the counsel for the petitioner are distinguishable from the facts of the case in hand.

6. For the foregoing reasons, the present petition is hereby dismissed being devoid of merits.

7. Given the nature of order being passed, there is no necessity to issue notice to respondent as no prejudice would be caused to him.

02.04.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No