

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM M-17763 of 2024
Date of Decision: 15.04.2024**

Kanwaljeet Singh ...Petitioner
Versus
State of Punjab ... Respondent

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

Present : Mr. Adiya Dassaur, Advocate, for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 09.01.2024 (Annexure P-10) passed by the Judicial Magistrate 1st Class, SAS Nagar in complaint case No. COMI/29/2017 under Section 156(3) Cr.P.C., whereby, the application under Section 311 Cr.P.C. filed by the present petitioner/complainant was ordered to be dismissed.

2. Learned counsel for the petitioner contends that there was a matrimonial dispute between the petitioner and his wife and several cases are pending between the parties. On 3rd April 2017, Parmajit Kaur, wife of the petitioner, alongwith two other persons broke the locks of house of the petitioner in his absence and destroyed and stole various documents lying in the house and other valuables. When the petitioner came to know about the incident, he dialed

No. “100” to call the police and registered his complaint. The police did not take any action and on 02.06.2017, he filed a petition under Section 156(3) Cr.P.C. The said petition was treated as a complaint and the petitioner had examined himself as CW1, during preliminary evidence. He stated that he had made a call at number “100” on 03.04.2017 and, thereafter, Satnam Singh ASI was examined as CW2, who stated that he had received application, but had no information with regard to the dialing of number “100” by the petitioner. At that stage, the petitioner moved an application under Section 311 Cr.P.C. (Annexure P-5), which was allowed by the trial Court partly. HC Gurvinder Singh was examined, who brought some record but stated that requisite record was with the SSP Office (Control Room). CW3 Sanjeev Kumar, Inspector, the SSP Office, (Control Room) was examined, who stated that there was no mention in the record of mobile No. “9779121979”. Learned counsel for the petitioner further submits that at that stage, the petitioner sought the summoning of additional record from the Airtel office for the call made from Mobile No. “9779121979” on 03.04.2017 by the petitioner. However, vide the impugned order (Annexure P-10), the prayer was declined by the trial Court. Learned counsel further contends that in fact the reasons recorded by the trial Court were vague and without any basis. In fact, to elucidate the truth, it was imperative to examine the call record data maintained by the network carrier Airtel and the petitioner should have been given a fair chance to prove his case.

3. On advance notice, Mr. I.P.S. Sabharwal, DAG, Punjab learned State counsel has appeared on behalf of the respondent and stated that the petitioner had already examined CW2 ASI Satnam Singh, who had exhibited the application dated 03.04.2017 as Ex.C1, which was moved by Kanwaljeet Singh, petitioner/complainant. Further, the petitioner had also examined CW3 Sanjeev Kumar, Inspector, who stated that as per the record, there was no entry in the register brought by him pertaining to any incident occurred and the report of the same be made on the helpline No. "100" at 5.00 p.m. or thereafter 12.00 a.m., in which, complaint by Kanwaljeet Singh was mentioned. Even there was no mention of mobile No. "9779121979" regarding the complaint on the above said time period.

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

5. In the present case, the trial Court has rightly observed that earlier also an application under Section 311 Cr.P.C. was moved by the petitioner and while moving the earlier application, the prayer made in the present application was not mentioned, whereas, both the prayers were interconnected. Still further, by way of moving the present application the petitioner wanted to examine the official of Airtel to prove the call record dated 03.04.2017 made at number "100" through Mobile No. "9779121979". First of all, it is impossible to retrieve the said data after a period of more than 7 years as it is a matter of common knowledge that such old data is never available

with “Bharti Airtel Limited”. Still further, the petitioner had already examined CW3 Sanjeev Kumar, who had proved the record pertaining to helpline No. “100”. He clearly stated that there was no entry in the register on 03.04.2017 pertaining to the present incident and there was no reference of complaint by Kanwaljeet Singh, petitioner. Thus, even otherwise, no useful purpose would be served by summoning the record mentioned in the application. Thus, the application under Section 311 Cr.P.C. was correctly declined by the trial Court and the present petition is ordered to be dismissed.

15.04.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No