



CRM-M-17504-2024

-1-

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

CRM-M-17504-2024

Date of Decision: 25.07.2024

Shashi Bala and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.H.P.S. Sandhu, Advocate,
for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of the impugned orders dated 28.02.2024 (Annexure P-1) and 11.03.2024 (Annexure P-2) passed by learned JMIC, Moga, during the trial in FIR No.74, dated 17.05.2017, registered under Sections 420/465/467/468/471/120-B IPC, at Police Station City South, Moga.

2. Precise submission made by counsel for the petitioners is that learned trial Court vide its order dated 17.05.2023 had given up the witness, namely, Yoginderpal Kansal, who is a Notary Public. He submits that learned trial Court had also observed in order dated 17.05.2023 as under:-

“In view of the letter of the Hon’ble Punjab & Haryana High Court, the exemption of the witness is allowed and as per section 57(6) of Indian Evidence Act, courts are to take judicial notice of seal of notaries public. In view of the above-said letter and provisions of Indian Evidence Act, lease agreement dated 06.10.2015 in question, was duly executed and authenticated Sh. Yoginderpal Kansal, Notary Public Moga. Ld. APP for the state is directed to tender the document and given up the witness in view of the above-said letter.”



3. Learned counsel for the petitioner has further submitted that after about 10 months, now trial Court vide impugned orders dated 28.02.2024 and 11.03.2024 has summoned the same witness, who was given up vide order dated 17.05.2023. He submits that no application under Section 311 Cr.P.C. was filed, but the Court without hearing the petitioner has passed the order.

4. Notice of motion.

5. Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of the State and Mr. Simranjit Singh, Advocate, accepts notice on behalf of respondent No.2.

6. Learned counsel for respondent No.6 though has opposed the submissions made by counsel for the petitioners, however, the precise submission raised by the petitioner that without hearing the witness, namely, Yoginderpal Kansal, has been summoned, is not under dispute.

7. Heard.

8. The trial Court is to ensure the fair trial and the same cannot be denied. Once, the trial Court had passed order by giving up the witness, namely, Yoginderpal Kansal, this Court is of the considered opinion that the parties should have been heard before passing any order, especially when there was no application under Section 311 Cr.P.C. for summoning the witness. Thus, in the interest of justice, the Court finds the orders dated 28.02.2024 (Annexure P-1) and 11.03.2024 (Annexure P-2), to be unsustainable in the eyes of law and hence, the same are set aside. The trial Court is directed to hear both the sides and pass a fresh order regarding summoning of said witness within a period of one month from the date of

receipt of copy of this order.

9. The present petition stands disposed of in above-said terms.

		(RAJESH BHARDWAJ)
		JUDGE
25.07.2024	Whether Speaking/Reasoned :	Yes/No
sharmila	Whether Reportable :	Yes/No