



CRR-804-2024

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

CRR-804-2024  
Decided on : 22.07.2024

Jaspinder Singh & another ..... Petitioners

Versus

Lakhwinder Singh & others ..... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Rajinder Partap Singh Jammu, Advocate  
for the petitioner.

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**Manjari Nehru Kaul, J.(Oral)**

1. Challenge in the instant petition is to the order dated 18.03.2024 passed by Chief Judicial Magistrate, Sirsa vide which an application under Section 311 Cr.PC filed by the petitioners was dismissed.

2. Learned counsel for the petitioners contends that the trial Court while passing the impugned order dated 18.03.2024 erroneously dismissed their application filed under Section 311 Cr.PC wherein they had prayed to testify as witnesses in a criminal complaint filed by their brother Lakhwinder Singh, concerning the forgery of a decree by accused Balwinder Singh. It has been submitted by the learned counsel that although the complaint was originally filed by the petitioners' brother Lakhwinder Singh, against accused Balwinder Singh, their brother had since been won over by the accused. It has



still further been submitted that while passing the impugned order, the trial Court had erred in dismissing the application under Section 311 Cr.PC on the ground of it having been filed at a highly belated stage. Learned counsel has still further argued that the petitioners have a vested interest in the complaint as it involves land inherited by their grandfather Sucha Singh, from his brother, Karam Singh, who died in the year 1969. Accused Balwinder Singh was falsely claiming himself to be the nephew of Karam Singh and had obtained a decree for the land in question through impersonation and false partition. It was in the aforementioned background that their brother Lakhwinder Singh had then filed a criminal complaint under Sections 419 and 420 IPC against accused Balwinder Singh.

3. It has also been argued by the learned counsel that undue weight has been given by the trial Court to the testimony of defence witness Joginder Singh, who claimed that Karam Singh was alive in the year 1989 and who also denied the fraudulent nature of the decree passed in the year 1986. Learned counsel has further submitted that his testimony contradicted the earlier claims made in the complaint filed in the year 2000 and suit, wherein it had been asserted that Karam Singh had died in the year 1969 and the decree was fraudulently obtained by accused Balwinder Singh. The withdrawal of the previous cases of Joginder Singh further undermined his credibility as a defense witness.



4. Heard learned counsel for the petitioner and perused the relevant material available on record.

5. At the outset, it is pertinent to note that the trial court's order rejecting the application under Section 311 Cr.P.C. is an interlocutory order. Therefore, in light of the statutory bar under Section 397(2) Cr.P.C., the present revision petition is not maintainable against the dismissal order dated 18.03.2024 passed by the trial court.

6. The Hon'ble Supreme Court while dealing with a similar controversy in ***Sethuraman Vs. Rajamanickam: 2010(5) RCR (Criminal) 512*** held that the orders refusing to call documents and rejecting an application under Section 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C. The Trial Court in that case found that the documents were not necessary and orders were not final in nature. Therefore, learned Judge could not have interfered into his revisional jurisdiction, as a result of which, the impugned judgment was set aside.

7. Even otherwise, it is a matter of record that the petitioners are neither complainants in the complaint in question nor were they cited as witnesses in the original complaint filed by their brother in the year 2012. The petitioners were not examined during preliminary, pre-charge, or post-charge evidence stages and therefore, had no locus-standi to file the application under Section 311 Cr.P.C. Additionally, the application was filed on 30.09.2023, after 10 years of the lodging of the



complaint in question, and that too, at a stage when the case was listed for final arguments before the trial Court.

8. The primary grievance of the petitioners’ concerns the complainant being won over by the accused. However, it is also a matter of record that the father of the petitioners, while testifying before the trial Court, deposed that the decree was validly passed at the behest of Karam Singh in the year 1989. This Court, therefore, concurs with the observations made by the trial court that allowing the present application under Section 311 Cr.PC to examine the petitioners as witnesses at this belated stage would/could lead to similar prayers from other family members of the deceased Sucha Singh, complicating the case further. There is sufficient evidence already adduced before the trial Court to decide the complaint in question.

9. As a sequel to the above, this Court does not find any ground to interfere in the impugned judgment passed by the trial Court. Accordingly, the present petition stands dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

22.07.2024  
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(MANJARI NEHRU KAUL)  
JUDGE

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable :       | Yes/No |