

2024:PHHC:051846

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

115

CRM-M-17332-2019

Date of Decision : **April 18, 2024**

AJAY KUMAR GOYAL

.....Petitioner

VERSUS

JASWINDER PAL SINGH

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Rajesh Gupta, Advocate for the petitioner.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, challenge is thrown to the order dated 20.2.2019 whereby, the application preferred by the petitioner, who is the complainant, under Section 311 for summoning of additional witness, namely, Gurnam Chand to prove the attested copy of capital account statement of Ajay Kumar Goel, proprietor of M/s Ajay Industries for the period w.e.f. 1.4.2017 to 31.12.2017.

2. The learned trial Court, dismissed the application on the ground that there is no relevancy of the record, which the petitioner wanted to adduce by way of additional evidence.

3. This Court has examined the impugned order, as well as the complaint and the present petition and finds no merit in the instant petition, for the reason that the petitioner has set up the case in his complaint that he had advanced a friendly loan to the respondent-accused and in discharge of the liability, he issued the cheque, which was subsequently dishonoured. In the complaint, he has no where mentioned that the advancement of loan was made from the accounts of the proprietorship firm, rather the case was set up that he has advanced the friendly loan to respondent No.2. In the application filed under Section 311 Cr.P.C., he has no where cited the relevancy of the witness, which he has sought to be examined. The relevant extract of the application reads as under:-

“That the applicant/complainant wanted to

summon the following witness:-

Gurnam Chand s/o Parkash Chand, Accountant, M/s Ajay Industries, 32-R, Industrial Area-B, Ludhiana, along with the attested copy of capital account of Ajay Kumar Goyal, Proprietor M/s. Ajay Industries, 32-R, Industrial Area-B, Ludhiana, for the period from 01/04/2017 to 31/12/2017.

That the summoning and examination of the said witness is essential to the just decision of the present complaint.

That the permission sought for is warranted by law and equity and is also in the interest of justice.”

4. Also in the list of witnesses attached with the complaint, he has nowhere mentioned the name of the witness, which he sought to be examined as an additional evidence. In the absence of any pleading in the application under Section 311 Cr.P.C. regarding the relevancy of the witness sought to be examined especially when the case set up by the petitioner in his complaint has no relevancy with regard to his proprietorship firm, the learned trial Court concerned has aptly dismissed the application finding it meritless.

5. In view of the above, this Court do not find any perversity or illegality in the impugned order, therefore, the impugned order is ordered to be maintained and the instant petition is accordingly **dismissed**.

(KULDEEP TIWARI)
JUDGE

April 18, 2024
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No