



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

CRM-M-43158-2024

Date of decision: 03.09.2024

Mohit Aggarwal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Lalit Kumar Narang, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/complainant under Section 528 of BNSS 2023 seeking setting aside order dated 09.08.2024 (Annexure P-4) passed by the Court of Additional Chief Judicial Magistrate Yamuna Nagar at Jagadhari vide which the application filed by the petitioner under Section 311 Cr.P.C was dismissed in a criminal case having FIR No.119 dated 24.01.2017 under Sections 420/406 IPC Police Station Jagadhari City titled as State Vs. Surender Singh etc.

2. Notice of motion.

3. Mr. P.K. Aggarwal, DAG, Haryana, accepts notice on behalf of respondent No.1-State.

4. The counsel for the petitioner submits that petitioner being complainant and Amit Singla attesting witness of the agreement to sell are material witnesses but due to oversight, the prosecution closed its evidence without examining them. That the petitioner also intends to produce certified copy of judgment and decree dated 29.03.2023 passed by the Court of Additional Civil Judge (Senior Division), Yamuna Nagar at Jagadhari by way of additional evidence. Accordingly, application under Section 311 Cr.P.C was filed by the complainant but the same was dismissed by the trial



Court in an illegal manner vide order dated 09.08.2024 (Annexure P-4). Being aggrieved, the petitioner has filed the present petition..

5. The State counsel while supporting the case of the petitioner submits that the aforesaid application be allowed in the interest of justice.

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

7. Undoubtedly, complainant Mohit Aggarwal and Amit Singla a marginal witness of agreement to sell dated 09.12.2015 are key witnesses and their evidence is necessary for just and proper adjudication of the case. Further request for additional evidence made by prosecution/complainant under Section 311 Cr.P.C could be entertained during trial. The application cannot be dismissed just on the ground that the prosecution has already closed its evidence and the trial has reached the stage of defence evidence.

8. In the instant case, the interest of justice demands that one opportunity be given to the complainant to examine himself and other material witness Amit Singla and to produce the certified copy of the concerned judgment and decree passed by the Civil Court.

9. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the application moved by petitioner under Section 311 Cr.P.C is allowed. One effective opportunity is granted to the prosecution to examine complainant Mohit Aggarwal and Amit Singla and to tender certified copy of judgment and decree dated 29.03.2023 subject to cost of Rs.30,000/- to be deposited by the petitioner with the District Legal Services Authority concerned.

03.09.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**