



CRM-M-13166-2025

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

CRM-M-13166-2025

Decided on : 11.03.2025

Gopal Krishan

..... Petitioner

Versus

The Punjab State Co-operative Supply and Marketing Federation Limited

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Varun Mittal, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of the order dated 15.01.2025 passed by learned Additional Sessions Judge, Barnala, vide which application under Section 311 read with 391 Cr.P.C. for recalling of witnesses CW-1 and CW-2 and for producing the documents has been partly allowed.
2. Petitioner has already approached this Court by way of filing CRR-508-2025, which was allowed to be dismissed as withdrawn by this Court vide order dated 25.02.2025.
3. It has been contended by learned counsel for the petitioner that the petitioner had filed an application under Section 311 Cr.P.C. read with 391 Cr.P.C. for recalling the witnesses i.e. CW-1 and CW-2 for their further cross-examination and for producing the documents in additional evidence, however, the same was partly allowed vide impugned order dated 15.01.2025. He submits that he petitioner has been allowed to tender only two documents out of five documents in additional evidence, whereas, re-examination of witnesses CW-1 and CW-2 had been illegally rejected. He has submitted that it was a case of the complainant that the complainant-Federation entered into an agreement with the present petitioner and his



firm for milling of paddy for the crop year 2011-12 and the complainant Federation stored the paddy for milling purpose in the rice mills of the petitioner, but the petitioner failed to mill the whole paddy and settled the accounts within stipulated period and an amount of Rs.2.61 crores became due towards the petitioner on account of quality cuts, cost of Bardana etc. He has submitted that learned trial Court had wrongly and illegally came to the conclusion that the present petitioner was liable for the commission of offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') and hence, illegally awarded the rigorous imprisonment for a period of two years vide judgment dated 12.04.2017. He has submitted that the complainant is involved in forum shopping and on one hand the recovery was sought against the petitioner by way of arbitration award dated 30.07.2014 and on the other hand, for the same alleged loss, the arbitration proceedings were also initiated against one Jagjeet Singh Ex. Senior Manager Markfed Barnala and Ram Singh salesman Markfed Barnala. He submits that award dated 30.07.2014 is a necessary document and cross-examination of CW-1 and CW-2 on the issue and the facts involved in the present case, is necessary. He submits that the Court has misread the pleadings and thus, has come to a wrong conclusion in partly allowing the application filed by the petitioner. He, thus, submits that the impugned order dated 15.01.2025 be modified by allowing further cross-examination of CW-1 and CW-2 and by producing the necessary documents as sought.

3. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was prosecuted in a complaint filed by the respondent-complainant. Learned trial Court vide order dated



12.07.2017 convicted the petitioner for the offence under Section 138 of the Act by awarding him sentence for two years. The same was assailed by the petitioner by way of filing appeal before learned Appellate Court, Barnala, however, during the pendency of the appeal, the petitioner filed an application under Section 311 read with Section 391 Cr.P.C. Learned trial Court had duly appreciated the submissions made by both the sides and on weighing the facts and circumstances, found the prayer of the petitioner for bringing on record the documents i.e. the attested copy of the judgment dated 03.11.2018 and order of the High Court in FAO-2074-2019, genuine, however, prayer qua re-examination of CW-1 and CW-2 was found to be not genuine. The petitioner had already availed sufficient opportunities for their cross-examination.

4. There is no gainsaying that the provisions of Section 311 Cr.P.C. are sacrosanct in nature and have been incorporated to secure the ends of justice. For resolving the controversy, appreciation of provisions of Section 311 Cr.P.C. are relevant, which read as under:-

“311. Power to summon material witnesses, or examine person present- Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and reexamine any such person if his evidence appears to it to be essential to the just decision of the case.”

5. From the bare reading of the provision of Section 311 Cr.P.C., it is apparent that the Court has ample power to re-examine or recall any such person whose evidence appears to be essential to the just decision of



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the case. However, Hon'ble Supreme Court in the case of **Swapan Kumar Chatterjee vs. Central Bureau of Investigation, (2019) 14 SCC 328** held as under:-

“11. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this Section to even recall witnesses for reexamination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law.”

6. There is no dispute regarding the law settled by Hon'ble Supreme Court time and again that the power granted under Section 311 Cr.P.C. should be exercised in a liberal manner, if the Court finds that evidence of the witness sought to be examined is essential for just decision of the case. However, the same cannot be allowed for filling up the lacunas. Stage of the trial is also to be taken into consideration. Thus, this Court finds no infirmity in the impugned order. The petitioner fails to make out a case, which qualifies him for the grant of relief claimed for, on the anvil of the law settled.

7. Resultantly, the present petition being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

11.03.2025
sharmila

Whether Speaking/Reasoned
Whether Reportable

: Yes/No
: Yes/No