

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32097-2019

Naresh Kumar

.....Petitioner

Versus

State of Haryana and Ors.

.....Respondents

Reserved on : 12.09.2025

Pronounced on: 2.12.2025

Judgment uploaded on: 04.12.2025

Whether only the operative part of the judgment is pronounced

or whether the full judgment is pronounced:

Full Judgment

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. I.S. Pabla, Advocate for the petitioner.

Mr. Vikram Singh, AAG, Haryana.

Mr. S.S. Gill, Advocate for respondent No.2.

AARADHNA SAWHNEY, J (ORAL)

1. Challenge in the present revision petition is to order dated 10.06.2019 (Annexure P.5) passed by the then learned Sessions Judge Kurukshetra vide which revision petition filed by the complainant-respondent No.2 against order dated 25.04.2019 passed by learned JMIC, Kurukshetra, dismissing his application filed under Section 311 Cr.P.C to lead additional evidence, has been accepted while allowing the same.

2. Relevant facts as emerging from the documents on record be noticed hereinbelow:

Complainant Hari Singh filed a complaint against the petitioners and others, who are his grand-sons averring therein that he was owner in possession of land measuring 72 kanal 04 marla 2 sarsai, being 1/4th share of the total land

measuring 288 kanals 17 marla comprised in Khewat No.371, Kittas 44 situated within the revenue estate of village Kirmach, Tehsil Thanesar, District Kurukshetra.

Complainant maintained that he had three sons namely, Bhale Ram, Randhir Singh and Satnarain. He died leaving behind his widow Rajbala and minor daughter Harpreet Kaur. That apart, complainant is also blessed with four daughters, namely, Santosh, Bohti Devi, Angrejo Devi and Tejo Devi. Serious allegations were levelled by the complainant against his own grand-son. By taking undue advantage of his old age and frail medical condition, accused in collusion and conspiracy with each other, as also to cause wrongfull loss to him executed a forged relinquishment deed No.889/1 dated 08.05.2015, in favour of the respondent-accused Naresh Kumar in respect of the said land. Said relinquishment deed is illegal, inoperative, nonest and not binding on his rights as the same was result of fraud and cheating played by the accused in collusion with the witnesses and revenue officers. It is further the stand of the complainant that while he was admitted in Aggarwal Nursing Home, Kurukshetra from 04.05.2015 to 09.05.2015, respondent approached him and requested that since they had to obtain limit from the Bank, some formalities had to be completed by the Authorities. On this pretext, he (complainant) was taken to Tehsil office, Thanesar and his signatures were obtained on blank and printed papers. Thus by misleading him, certain documents were forged and a relinquishment deed was got prepared. On the strength of the said forged deed, mutation was consequently sanctioned in favour of accused No.1-namely, Deep Chand, who had previously also got executed a fabricated relinquishment Deed No.7093/1 dated 18.09.2014 issued in his name by impersonating the complainant. In the panchayat meeting that was convened to amicably resolve the dispute, Deep Chand admitted his guilt and got the land transferred in favour of the complainant. As soon as the complainant

came to know of the other fabricated relinquishment deed dated 26.11.2015, he questioned the accused and threatened him with dire consequences. On the basis of said complaint, a formal case vide FIR No.77 dated 28.02.2016 under Sections 419,420,467,468,120-B,506 IPC was registered at P.S City Thanesar.

3. During the course of trial, an application was moved by the complainant Hari Singh under Section 311 Cr.P.C vide which permission of the Court was sought to examine two attesting witnesses namely, Bohti Devi and Angrejo Devi, his own daughters. He also wanted to tender certain registered documents regarding relinquishment deed. As noted hereinabove, the said application was dismissed by the learned trial Magistrate vide order dated 25.04.2019. Aggrieved of which, revision petition was filed, which was allowed by the learned Sessions Judge in terms of order dated 10.06.2019. Present petition is directed against the aforesaid order of the learned Sessions Judge.

4. Learned counsel for the petitioner while assailing the aforesaid order contended that the learned revisionist Court completely fell in error by entertaining the revision petition against the order passed by the learned JMIC, Kurukshetra. Settled proposition of law on the subject in issue was not taken note of. Order dated 25.04.2019 passed by the learned JMIC being interlocutory order, the revision petition before the Sessions Court was not maintainable. In support of his submissions, learned counsel for the petitioner placed reliance upon the following judgments:

- i) **Sethuraman vs. Rajamanickam, 2010(5) RCR (Criminal) 512;**
- ii) **Amarjit Singh vs. Central Bureau of Investigation, 2024 NCPHHC 21187;**
- iii) **Pushpinder Singh vs. State of Punjab, 2023 NCPHHC 122171;**
- iv) **M/s Shingar Jewellers vs. Charanjit Singh, 2025 (2) RCR (Criminal) 616;**

The second leg of submission raised by the learned counsel for the petitioner is that application under Section 319 Cr.P.C was moved by the complainant at the fag end of the trial, challan having been filed on 24.06.2016.

Even the prosecution evidence was closed on 30.01.2018. Ample opportunities had been availed by the prosecution to lead their evidence. After the evidence of the complainant party was closed, accused led their evidence and in their defence examined two witnesses. It was when the case was listed for defence evidence and arguments that the present application under Section 311 Cr.P.C was moved vide which request was made to summon Smt. Bohti Devi and Angrejo Devi apart from tendering certain documents. The witnesses sought to be examined by way of additional evidence and documents sought to be produced were well within the knowledge of the complainant party right from the inception of the trial and, thus there was absolutely no justification for moving application at such a belated stage. Filing of the application under Section 311 Cr.P.C was a deliberate attempt on the part of the complainant to delay the case proceedings.

Primarily with these backdrop, it is contended that order dated 10.06.2019 (Annexure P.5) passed by the then learned Sessions Judge Kurukshetra is illegal and perverse being not sustainable in the eyes of law and the same deserves to be set aside.

5. Per contra, while opposing the present petition, learned counsel for the respondent-complainant at the outset contended that in view of the judgment of Hon'ble Supreme Court reported as **V.C. Shukla vs. State through C.B.I 1980 AIR (Supreme Court)962**, the word “interlocutory” has to be given a wider and liberal interpretation so as to ensure complete fairness at the trial, as also that any order which affects the rights of the parties is revisable. In support thereto, he placed reliance upon following judgments:

- i) **V.C. Shukla vs. State through C.B.I 1980 AIR (Supreme Court)962;**
- ii) **Honnaiah T.H vs. State of Karnataka and others passed Hon'ble Supreme Court in CrI.A.No.1147 of 2022 arising out of SLP (CrI.) No.2021 of 2022) vide order dated 04.08.2022;**

Learned counsel next contended that passing of the impugned order by the learned Magistrate had resulted into miscarriage of justice as the witnesses sought to be examined are the attesting witnesses to the relinquishment deed, which as per complainant has been got executed by playing a calculated fraud on him. Further, it is settled that the application under Section 311 Cr.P.C can be moved at any stage of the case.

6. Heard.

7. Without adverting to the merits of the case, this Court is of the opinion that as per settled law on the subject, the revision petition against the order declining application under Section 311 Cr.P.C is not maintainable. Reliance in this regard is placed on a judgment of Hon'ble Supreme Court in **Sethuraman vs. Rajamanickam, 2009(5) SCC (153)** wherein it has been held as under:

“Secondly, what was not realised was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311 Criminal Procedure Code, were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Criminal Procedure Code. The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e, one on the application under Section 91 Criminal Procedure Code for production of documents and other on the application under Section 311 Criminal Procedure Code for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.”

Further, while referring to the aforesaid judgment, this Court also in **M/s Shingar Jewellers's case (supra)** held that the revision against an order passed under Section 311 Cr.P.C is barred as such orders are interlocutory in nature.

In view of the above referred judgments, thus it is clear that the revision petition assailing the order of learned Magistrate under Section 311 Cr.P.C is not maintainable. Consequently, order dated 10.06.2019 (Annexure P.5) passed by the learned Sessions Judge Kurukshetra is set aside. Parties are free to avail their appropriate remedy, if any, in accordance with law.

2.12.2025
manoj

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No