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

CRM-M-52600-2018

Date of decision 20.01.2026

RAJIV KUMAR SHARMA

..... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH. J.

1. This is a petition seeking for quashing of order dated 11.06.2018, hereinafter being referred to as impugned order, passed by the learned Judicial Magistrate 1st Class, SAS Nagar Mohali hereinafter being referred to as 'trial Court', whereby the application moved by the complainant/petitioner, hereinafter referred to as petitioner only, under Section 311 Code of Criminal Procedure has been dismissed.

2. Briefly stating the facts emerging from record are that for the commission of offence punishable under Sections 406, 420 & 120-B of Indian Penal Code, FIR No.52 dated 15.03.2013 was lodged in Police Station Mataur, District Mohali and in the above-mentioned case, after investigation the report under Section 173 Cr.P.C. was filed. In view of above-mentioned report, when



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the trial was in progress, the petitioner moved an application under Section 311 Cr.P.C., which has been dismissed by the learned trial Court by virtue of impugned order.

3. It is the case of the petitioner that he was prompted to purchase a double storey shop ad measuring 12' x 34' comprised in Khata No.914/993, 916/998 and 1000, Khasra No.588(152-0), 493/2 (157 Kanal 14 Marla). According to complainant, he was allured by the accused by projecting that the above-mentioned property was free from all encumbrances and therefore, on payment of Rs.60,00,000/-, as part of sale consideration, in good faith the petitioner entered into an agreement for sale with the accused. As per petitioner, later on when the accused failed to execute the sale deed of the above-mentioned land, he filed a suit for recovery, which was decreed by the Court. According to petitioner, later on he came to know that the property, which was alleged to be sold by the accused, was not free from all encumbrances, and that in fact the vendor was not having the clear title over the same and hence, the FIR for the commission of offence punishable under Sections under Sections 406, 420 & 120-B of IPC.

4. Heard.

5. With regard to instant petition, it has been contended by learned counsel for the petitioner that the petitioner had filed a suit for recovery of money for which he was duped by the accused, and that in the above-mentioned civil suit, the cheating and *mala fide* intentions of both the accused were duly established by the petitioner. According to learned counsel for the petitioner, the certified copies of statements of witnesses, recorded in the above-mentioned Civil Suit vis-a-vis of documentary evidence, produced therein, are necessary to



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prove the charges against the respondent in the present case and for that purpose, only, the application under Section 311 Cr.P.C. was moved.

6. It has been further contended by learned counsel for the petitioner that in the present case, right from the very beginning the Investigating Agency had been favouring the accused, and that is why at initial stage, no action was taken on the complaint of the petitioner and on two occasions, even the efforts to cancel the FIR were made by the Investigating Agency. As per learned counsel for the petitioner when the petitioner contested the above-mentioned initiative of the Investigating Agency, the challan was filed, but in the collection of evidence number of gaps were created by the Investigating Agency to extend an undue benefit to the accused.

7. It has also been contended by learned counsel for the petitioner that the documents sought to be produced by the petitioner by way of additional evidence are very relevant to prove the allegations against the accused, but the learned trial Court committed an error of judgment when it failed to appreciate that the production of those documents will serve the ends of justice. In view of above, the learned counsel for the petitioner has contended that the impugned order deserves to be quashed.

8. In support of his contentions, the learned counsel for the petitioner has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Rajendra Prasad vs. The Narcotic Cell through its Officer-in Charge, Delhi' 1999(3) RCR(Criminal) 440, and by this Court in the cases of 'Balwinder Singh vs. State of Punjab and Others' 2010(1)RCR(Criminal) 909, 'Dr. Devender Singh Vs. Navdeep Singh and Anr.'



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2017(1)RCR(Criminal) 690 and 'Rahul Labroo Vs. Dr. Priya' 2015(4) RCR (Criminal) 69.

9. Nobody has appeared on behalf of private respondent. The learned State counsel has not opted to oppose the instant petition.

10. The record has been perused carefully.

11. A perusal of record shows that the learned trial Court dismissed the application under Section 311 Cr.P.C. for additional evidence by holding that with an intention to fill up the lacuna, the above-mentioned application has been moved, and that the witnesses sought to be examined and the documents sought to be produced by the petitioner, were not relevant for arriving at a right decision in the case. Thus, the learned trial Court dismissed the application under Section 311 Cr.P.C.

12. A perusal of record also shows that the application moved by the petitioner seeking for permission to lead additional evidence was for production of certified copy of statement of witnesses recorded in the Civil Suit.

13. In addition to above, the certified copies of documents proved in the civil suit were also sought to be produced. However, this fact cannot be ignored that the testimony of witnesses recorded in civil suit are not *per se* admissible unless the above-mentioned witnesses are examined during the course of trial and the defence counsel is afforded an opportunity to cross-examine the same.

14. Thus, it is hereby held that the above-mentioned statements were not a relevant piece of evidence for proving of any fact pertaining to the instant trial. It is also relevant to mention here that for proving of charge, the list of witnesses and the documents sought to be produced were already on record and



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the learned trial Court has observed that the above-mentioned evidence was not relevant for arriving at a rightful conclusion of the case.

15. In view of above, it is hereby held that while forming the above-mentioned opinion, a right view has been taken by the learned trial Court and in the present case, there is nothing on record to show that the learned trial Court has exercised its jurisdiction contrary to the settled principles of law. In fact, the learned trial Court has specifically observed that by moving the above-mentioned application, an effort to fill up the lacuna was made. Such move is not permissible under the law.

16. In view of above-mentioned facts and circumstances of this case, it is hereby held that a right view has been taken by the learned trial Court while denying permission to the petitioner to lead additional evidence.

17. As far as the principles of law laid down by the Hon'ble Supreme Court of India in the case of Rajendra Prasad (supra) and by this Court in the cases of Balwinder Singh (supra), Dr. Devender Singh (supra) and Rahul Labroo (supra), are concerned, the peculiar facts and circumstance of the present case makes it apparent that the factual matrix of instant case being different, the above-mentioned principles are not applicable to the instant case. Thus, the petitioner is not entitled to draw any benefit of the above-mentioned principles of law.

18. As a sequel to above-mentioned observations, it is hereby held that the learned trial Court has not committed any error either of judgment, or of fact, while declining the request of petitioner to lead additional evidence by invoking the provisions enshrined under Section 311 Cr.P.C.



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19. Thus, in my opinion, there is no scope for indulgence and interference in the impugned order and the present petition being devoid of merit deserves dismissal. The same is hereby dismissed, accordingly.

20. Pending miscellaneous application(s), if any, shall also stand disposed of, accordingly.

**(SURYA PARTAP SINGH)
JUDGE**

20.01.2026

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Whether speaking/reasoned	:	Yes
Whether Reportable	:	No