



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

CRM-M-1265-2025

Date of Decision: 14.01.2025

M/s Glass and More

..... Petitioner

Versus

M/s Hari Om Facade

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek Singla, Advocate for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of impugned order dated 28.02.2024 (Annexure P-6) passed by learned JMIC, Gannaur, in complaint case COMA No.237/2018 dated 28.09.2018/23.02.2024 vide which application for leading additional evidence filed by the petitioner was dismissed and also the impugned order dated 12.12.2024 (annexure P-8) passed by learned Additional Sessions Judge, Sonapat, whereby the criminal revision challenging the order dated 28.02.2024 was dismissed.

2. Succinctly, facts of the case are that petitioner filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 against the respondent on 28.09.2018. On the basis of the preliminary evidence, the trial Court found a *prima facie* case against the respondent and thus, summoned him to face the trial. On the summoning of the respondent, the trial commenced. When the trial was at the advanced stage, the petitioner filed an application for leading additional evidence to produce the bills/challan GST bills, GST and income tax returns. The same was opposed by the respondent-accused. After hearing both the sides, learned trial Court declined the same vide impugned order dated 28.02.2024. This order was



assailed by the petitioner by way of filing the revision petition before learned Revisional Court, Sonapat. On hearing both the sides, learned Revisional Court found no infirmity in the order dated 28.02.2024 and thus, dismissed the same vide impugned order dated 12.12.2024. Thus, there are concurrent findings of both the Courts against the petitioner. Aggrieved by these orders, the petitioner has approached this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner had filed a complaint on account of dishonour of the cheque issued by the respondent-accused. He submits that for bringing on record GST bill etc., the petitioner filed an application under Section 311 Cr.P.C., however, the same was illegally declined by the trial Court, which order was further illegally upheld by learned Revisional Court. He submits that details of the bills Ex.C-6 and Ex.C-8 are already on record, whereas, the petitioner wanted to bring on record the invoice/bills of the said period. He submits that additional documentary evidence and bills are the GST bills, however, both the Courts have miserably failed to appreciate the same. It is submitted that power under Section 311 Cr.P.C. is sacrosanct in nature and the same can be invoked at any stage before the conclusion of the trial, however, both the learned Courts have failed to appreciate the same and thus, have illegally declined the application filed by the petitioner by way of impugned orders, which are totally unsustainable in the eyes of law.

4. After hearing learned counsel for the petitioner and perusing the record, it is deciphered that the petitioner is the complainant, who prosecuted the respondent by way of filing complaint under Section 138 of the NIA in



the year 2018 and since then, the trial is in progress. As evident from the record, the petitioner has filed this petition after availing 18 opportunities during defence evidence. Needless to say that the petitioner is the complainant and trial is at the advanced stage. The accused is facing trial from the last about seven years.

5. 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.”

6. 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 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.”

7. 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 orders passed by both the Courts i.e. the trial Court and Revisional Court. The petitioner fails to make out a case, which qualifies it for the grant of relief claimed for, on the anvil of the law settled.

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

(RAJESH BHARDWAJ)
JUDGE

14.01.2025
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No