



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

CRM-M-47942-2024

Date of Decision: 14.01.2025

Darshan Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. RajKapoor Malik, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of impugned order dated 06.08.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Kaithal, vide which the application dated 11.01.2024 under Sections 91 and 311 Cr.P.C. filed by the petitioner has been dismissed in a case FIR No.142 dated 21.07.2023, registered under Sections 302, 34 IPC, at Police Station Guhla, District Kaithal.

2. Succinctly, facts of the case are that petitioner before this Court is the complainant on whose statement the above-said FIR was registered. It was alleged in the FIR that on 21.07.2023, the complainant came to know that his brother Maluk Singh and Manish had a fight on 20.07.2023, in which his brother Maluk Singh caused injury to Manish. On 21.07.2023 at about 6:15 a.m./6:30 a.m., he came to know that brothers of Manish, namely, Pintu and Munna had beaten his brother Maluk Singh to death with sticks. On receiving the information, he rushed to the spot alongwith his brother Gyan Singh and found his brother Maluk Singh lying dead and he had injuries on his legs and head. Thereafter, they brought his brother Maluk



Singh's dead body to home. Request was made to take legal action against the accused persons. On the registration of the FIR, the investigation commenced. On the completion of investigation, the Investigating Agency filed the challan under Section 173 Cr.P.C. against both the accused, namely, Pintu and Munna. The trial Court framed the charges against both of them. Thereafter, the petitioner filed an application under Sections 91 and 311 Cr.P.C. praying for bringing on record the news items/covered story dated 25.07.2023 of a Press Reporter qua the murder of brother of the complainant, which implicates Bobby @ Gurvinder as an accused in the present case. However, learned trial Court declined the same vide impugned order dated 06.08.2024. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has submitted that after the investigation, the Investigating Agency filed challan only against Pintu and Munna, whereas, Bobby @ Gurvinder was declared innocent. He submits that wife of one of the accused, namely, Pintu had given an interview on Youtube channel, namely, Navtej TV Punjab before reporter Gurtej Rana and this press report was essential to be considered for the just decision of the case and hence, the petitioner filed application under Sections 91/311 Cr.P.C. for the examination of the said reporter as witness, who was not cited as a witness by the prosecution. He submits that however, the application has been illegally declined by the trial Court. It is submitted that power under Section 311 Cr.P.C. are sacrosanct in nature and the same can be invoked at any stage before the conclusion of the trial, however, learned trial Court has failed to appreciate the same and thus, has illegally declined



the application filed by the petitioner by way of impugned order dated 06.08.2024, which is totally unsustainable in the eyes of law.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has drawn the attention of this Court to the status report filed. He has submitted that after the registration of the FIR, a free and fair investigation was conducted and sufficient material was found against both the accused, namely, Pintu and Munna against whom the challan was presented, however, accused Bobby @ Gurvinder was declared as innocent. It is submitted that the application filed by the petitioner under Section 91/311 Cr.P.C. is totally misconceived and examination of the Reporter Gurtej Rana as a prosecution witness is not essential for the just decision of the case. He submits that learned trial Court has rightly dismissed the application filed by the petitioner. He, thus, submits that there being no infirmity in the impugned order passed, the present petition deserves to be dismissed.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is the author of the FIR on whose statement the FIR was registered. As evident from the record, the Investigating Agency on completion of the investigation, filed challan against both accused, namely, Pintu and Munna. The precise submission made by counsel for the petitioner is that application filed under Section 311 Cr.P.C. was filed for the examination of press reporter Gurtej Rana as prosecution witness.

6. 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. is 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.”

7. 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 for 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 wide 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.”

8. 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 to be misused for prolonging the trial. The petitioner filed the application for bringing on record the press report and for examining the press reporter Gurtej Rana. The same cannot be considered as material piece of evidence, which is essential for the just decision of the case. Thus, this Court finds no infirmity in the impugned order passed by learned trial Court. The petitioner fails to make out a case, which qualifies him to seek the relief prayed for on the anvil of the law settled.

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

(RAJESH BHARDWAJ)
JUDGE

14.01.2025

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