



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

202

CRM-M-4415-2019

Date of decision : 21.07.2025

Manwinder Kaur

.... Petitioner

VERSUS

State of Punjab and another

.... Respondents

CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI

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

Ms. Manjot Kaur, AAG, Punjab.

Mr. D.S. Malwai, Advocate
for respondent No. 2.

AMARJOT BHATTI J. (ORAL)

1. Petitioner – Manwinder Kaur has filed petition under Section 482 of Cr.P.C. to set aside order dated 15.12.2018 (Annexure P-4) passed by learned Sub-Divisional Judicial Magistrate, Payal in case FIR No. 126 dated 07.07.2011 under Section 420, 406, 498-A, 120-B of IPC registered at Police Station Samrala, District Ludhiana, in which application filed by prosecution under Section 311 Cr.P.C. has been dismissed.

2. As per the facts of case, aforesaid FIR was registered on the written complaint of Manwinder Kaur against her husband and members of in-laws' family with allegations of maltreatment on account of demand of dowry. In the written complaint, she narrated various incidents which took place in matrimonial home. On completion of investigation, challan was presented in the Court.



3. During the pendency of trial, prosecution filed application under Section 311 Cr.P.C. (Annexure P-2), alleging that while presenting the challan, names of some of the witnesses were not mentioned in the list of witnesses. Following witnesses as detailed in application are necessary to prove the bills of said dowry articles given at the time of marriage i.e.

a) Gian Chand Chhotra Prop. of Chhotra Brass Merchants, 8, New Market, Subhash Bazar, Khanna, Tehsil Khanna, District Ludhiana.

b) Baldev Singh & Sons (Cloth Merchant), 29, Chandla Market, Khanna, through its Prop. Baldev Singh.

c) Dhanjal Furniture House, G.T. Road, Khanna, through its Prop. Budh Singh.

d) Ashoka Jewellers, Guru Teg Bahadur Nagar, Near Lalheri Road, Phatak, Khanna, through its Prop. Ashok Kumar.

Therefore, application may be allowed, as prayed for.

4. Application was opposed by accused by filing reply (Annexure P-3). Accused raised preliminary objection that application was not maintainable. It was filed with ulterior motive to delay the trial and to fill up the lacunas in case. During investigation, no such record was collected nor statements of said witnesses referred above were recorded. It is denied that inadvertently names of said witnesses could not be mentioned in the list of witnesses. Therefore, application filed by prosecution deserves dismissal.

5. After hearing arguments advanced by learned counsel for both the sides, application was declined by passing impugned order dated 15.12.2018 (Annexure P-4). Feeling aggrieved of this order, present petition has been filed.

6. Learned counsel for petitioner argued the case as per the facts narrated in application. It is pointed out that original bills were duly handed



over to Investigating Agency and same were not made part of the challan. Copies of bills of Ashoka Jewellers, Dhanjal Furniture House and Chhotra Brass Merchants (Annexures P-7 to P-9) are also attached with present petition. Learned counsel representing petitioner also referred to the statement of Inspector Parveen Sharma PW-1 (Annexure P-6), who during cross-examination conceded that during inquiry complainant had produced original bills before him but the said bills were not there in the judicial file. Learned trial Court without appreciating the aforesaid factual position wrongly declined application filed under Section 311 Cr.P.C. by passing impugned order dated 15.12.2018 (Annexure P-4). Therefore, impugned order may kindly be set aside and petitioner/prosecution may be allowed to examine the witnesses detailed in the application.

7. Learned State counsel confirmed the factual position. Application under Section 311 Cr.P.C. was filed by complainant through prosecution. It is pointed out that testimony of aforesaid witnesses is material for proper adjudication of the case.

8. Initially private respondent No. 2 appeared through his counsel Mr. H. P. Singh, Advocate, but thereafter he stopped appearing.

9. I have considered the arguments and documents annexed with present case. Prosecution alongwith complainant filed application under Section 311 Cr.P.C. (Annexure P-2), which was contested by accused by filing reply (Annexure P-3) and finally it was declined by passing impugned order dated 15.12.2018 (Annexure P-4). Present FIR has been registered on account of matrimonial dispute. Witnesses mentioned in application are pertaining to the alleged purchase of dowry articles. The bills of Ashoka Jewellers, Dhanjal



Furniture House and Chhotra Brass Merchants are also annexed as Annexures P-7 to P-9. As per the case of prosecution, dowry articles were given which were misappropriated by accused persons. There are also allegations of maltreatment on account of demand of dowry. Trial in this case is already going on. Examination of aforesaid witnesses and bills referred above are relevant and material for final adjudication of the case.

10. It is a fact that alongwith challan report said bills are not annexed nor aforesaid witnesses are mentioned in the list of witnesses and for this reason prosecution had to file application under Section 311 Cr.P.C. I have considered the cross-examination of Inspector Parveen Sharma PW-1 (Annexure P-6), who during his cross-examination conceded that during the course of inquiry complainant had produced original bills before him. Therefore, there is no lapse on the part of complainant. It was for Investigating Officer to conduct investigation in a proper manner by collecting relevant record and recording the statements of witnesses during investigation. For the lapse on the part of Investigating Agency, complainant cannot suffer especially when during investigation/inquiry, original bills were produced before Investigating Agency. It cannot be said that application under Section 311 Cr.P.C. has been filed to fill up the lacunas in the case. Both complainant and accused have a right for fair trial. Onus will be on prosecution to examine said witness and to prove the record as per law. Accused will not suffer any prejudice as he will get full opportunity to cross-examine the witnesses and he will be able to lead his evidence in defence.

11. In view of my aforesaid discussion, impugned order dated 15.12.2018 (Annexure P-4) passed by learned Sub Divisional Judicial



Magistrate, Payal is not sustainable in the eyes of law and same is accordingly set aside by accepting present petition and application under Section 311 Cr.P.C. is allowed as prayed for. The trial is pending since long, therefore learned trial Court is directed to expedite the trial by giving reasonable adjournments.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

21.07.2025

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