

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-11135 of 2015
Date of Decision : 18.5.2015

Sukhbir @ Sukhdev and another

.....Petitioners

Vs.

State of Haryana

.....Respondent

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Ashit Malik, Advocate for the petitioners.
Mr. M.K. Sangwan, DAG, Haryana.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Petitioners, by way of instant petition under Section 482 Cr.P.C., seek quashing of the impugned order dated 20.3.2015 (Annexure P-4) passed by the learned trial court, whereby an application under Section 311 Cr.P.C., filed by the accused-petitioner for recalling PW-4 and PW-12 for their further cross-examination was dismissed by the learned trial court.

Notice of motion was issued and pursuant thereto, reply by way of affidavit dated 16.5.2015 filed in the court today is taken on record and copy thereof has been supplied to learned counsel for the petitioners.

Learned counsel for the petitioners submits that the counsel of the petitioners in the learned trial court, because of sheer inadvertent mistake on his part could not put a pertinent question to these two material witnesses i.e. PW-4 and PW-12. He further submits that the petitioners would not take much time

of the court and both these witnesses PW-4 and PW-12 can be put to further cross-examination within a very short time on the same date. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from Mahender Siungh, ASI, Police Station Hodal, Distt. Palwal, submits that enough opportunities were granted to the petitioners. The petitioners are intending to delay the trial, which is at the fag end. He further submits that the learned trial court has recorded justified reasons while passing the impugned order, which needs to be upheld. He prays for dismissal of the present petition.

Having heard learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that in the given fact situation of the present case noticed herein above, present petition deserves to be allowed. It is so said, because the petitioners, who are the accused must not suffer any kind of prejudice because of an inadvertent mistake on the part of their counsel. If one opportunity, as sought by the petitioners is not granted, miscarriage of justice is likely to take place, which must be avoided, as far as possible.

So far as the scope of Section 311 Cr.P.C., is concerned, it is wide enough and the opportunity can be granted to the parties seeking the same at any stage of the trial. It is also undisputed on record that the trial is yet to conclude. Thus, keeping in view the peculiar fact situation of the case and to secure the ends of justice as well as to avoid abuse of the process of law, present petition is allowed. The impugned order dated 20.3.2015 passed by the learned trial court is set aside.

Consequently, the learned trial court is directed to grant only one

opportunity to the petitioners for the purpose of further cross-examination of PW-4 and PW-12. Thereafter, the learned trial court shall proceed further, in accordance with law.

With the above said observations made and directions issued, present petition stands disposed of.

18.5.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE