

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

Crl.Misc.No.M-14896 of 2015

Date of decision : 7.5.2015

Davender Kumar Sharma @ Dev

....Petitioner

Versus

Gaurav Enterprises and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

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

.....

MAHESH GROVER, J.

The petitioner impugns the order dated 16.4.2015 by which his application under Section 311 Cr.P.C. has been declined.

Learned counsel for the petitioner contends that the impugned order is erroneous and Section 311 Cr.P.C. is intended to be used liberally if the court arrives at a conclusion that recalling of a witness is essential for the proper adjudication of the matter.

A perusal of the impugned order would show that the petitioner had nowhere disclosed in his application as to what material questions he wanted to put to the witness. He was totally silent in this regard. Similarly, he was unable to explain as to what would be the reason for the recall of the witness. It is

settled proposition of law that a witness cannot be permitted to be recalled in order to fill up the lacuna left out during the course of cross-examination. Besides unless the reason for recall is disclosed to the court it shall not be in a position to understand whether the recall of a witness is essential in the given set of circumstances. The petitioner has failed to demonstrate any of these aspects. The application being totally vague the trial court was right in declining the same.

Petition dismissed.

7.5.2015
dss

(MAHESH GROVER)
JUDGE