

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-23869 of 2014

Date of Decision: January 23, 2015

Rajesh Kumar Chaturvedi

...Petitioner

VERSUS

Muni Lal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bikram Chaudhary, Advocate
for the petitioner.

Mr.Deepender Singh, Advocate
for respondent No.1.

Mr.Gourav Jindal, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against the order dated 08.01.2014 passed by learned Addl. Sessions Judge, Faridabad vide which application filed by the petitioner under Section 311 Cr.P.C. for recalling of the respondent/complainant for further cross-examination has been dismissed.

Notice of motion was issued in this case and learned counsel for respondent No.1 as well as learned State counsel appeared and contested the petition.

I have heard learned counsel for the parties as well as

learned State counsel and have gone through the record.

From the record, I find that the application under Section 311 Cr.P.C. has been filed during the appeal for recalling respondent No.1/complainant Muni Lal. As per the arguments of learned counsel for the petitioner, the statement of Muni Lal was recorded as CW-3 before the trial on 13.08.2010 and on that day, his cross-examination was deferred. On 16.02.2011, the said witness was present and cross-examined and though the matter was deferred for further cross-examination but till after lunch, he was not cross-examined thereafter. Learned counsel for the petitioner argued that the statement without cross-examination is incomplete.

At the time of arguments, learned State counsel as well as learned counsel for respondent No.1 failed to show to this Court any document that after lunch on that day, the witness was brought to the witness box for further cross-examination, which means that complainant Muni Lal's cross-examination is incomplete. The mere fact that his chief-examination is complete and there has been further cross-examination, will not show that his statement is complete. When the Court deferred further cross-examination till after lunch, then the witness must have come to the witness box for further cross-examination and there is nothing on the record to show that witness came into witness box and offered himself for further cross-examination. The mere fact that after lunch, complainant closed the evidence is no ground to treat the statement of complainant as complete.

Therefore, the complainant is required to be further cross-

examined in the interest of justice and to do substantial justice between the parties. His further cross-examination is necessary for the just decision of the case. It is also in the benefit of the respondents that the witness CW-3 Muni Lal's cross-examination is completed. If, opportunity is not granted to the accused to further cross-examine the complainant and statement of complainant remain as it is, then in my view, it cannot be looked into by the Court as it being incomplete statement and it will cause prejudice to the accused.

In view of the above discussion, I find that the impugned order dated 08.01.2014 passed by learned Addl. Sessions Judge, Faridabad is incorrect and not as per law and the same is set aside. The application filed by applicant under Section 311 Cr.P.C. is allowed. It is for the learned Addl. Sessions Judge, Faridabad to get complainant Muni Lal's further cross-examination completed by recording the statement himself or by sending the case to the lower Court, as per law.

Therefore, finding merit in the present petition, the same is allowed.

January 23, 2015
Vgulati

(INDERJIT SINGH)
JUDGE