

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

**CRM No.M-23848 of 2015**

**Date of decision:04.08.2015**

**Harmesh Singh**

**.....Petitioner(s)**

**Versus**

**State of Punjab & ors.**

**.....Respondent(s)**

**CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH**

**\* \* \***

Present: Mr.Amardeep Singh Mann, Advocate for the petitioner(s).

**DARSHAN SINGH, J.**

The present petition has been preferred under Section 482 of Code of Criminal Procedure (in short 'the Cr.P.C.') for setting aside the order dated 13.10.2014 (Annexure P-3) passed by the learned Judicial Magistrate 1st Class, Mansa whereby the application under Section 311 Cr.P.C. moved by the petitioner for summoning Dr. Hardeep Sharma, Medical Officer, Civil Hospital, Bhikhi along with original Medico Legal Report No.BSS/110/09 dated 21.06.2009 has been dismissed and the order dated 23.04.2015 (Annexure P-5) passed by the learned Additional Sessions Judge, Mansa whereby the revision petition against the aforesaid order has been dismissed. It has been further prayed that the application dated 07.08.2014 (Annexure P-1) moved by the petitioner for examination of Dr. Hardeep Sharma as a prosecution witness may be allowed.

Learned counsel for the petitioner contended that the examination of Dr. Hardeep Sharma was very essential for the just

decision of the case. The petitioner was caused injuries by the accused. He was medico legally examined by Dr. B.S. Sahota. The said doctor was in jail in some case and later on he died. Dr. Hardeep Sharma had been working with Dr. B.S. Sahota (now deceased) and can prove the Medico Legal Report prepared by him. The proof of the said Medico Legal Report is essential in order to establish the injuries on the person of the complainant/petitioner. Thus, he pleaded that the impugned orders are illegal and the application Annexure P 1 filed by the petitioner should be allowed.

I have duly considered the aforesaid contentions.

The petitioner has moved the application under Section 311 Cr.P.C. before the learned trial Court pleading therein that Dr. Baldev Singh Sahota, Medical Officer, Civil Hospital, Bhikhi medico legally examined petitioner Harmesh Singh but the said doctor remained in custody and later on, he expired. In the meantime, the evidence was closed by the learned trial Court by order. As such the Medical Officer/expert could not be examined to prove the injuries on the person of the petitioner. It was necessary to examine Dr. Hardeep Sharma in place of Dr. B.S. Sahota who had remained in service during the tenure of Dr. B.S. Sahota and had seen him writing and signing. This application has been contested by the accused/respondents No.2 to 9 before the learned trial Court. A perusal of impugned order dated 13.10.2014 (Annexure P-3) shows that the charge in this case was framed on 19.11.2010. Thereafter, fifteen effective opportunities including eight last opportunities were granted to the prosecution to conclude the evidence and thereafter, the

evidence of the prosecution was closed by the order of Court on 04.03.2014. It is nowhere mentioned in the application as to when Dr. Sahota had expired, whether he expired before 19.11.2010 the date on which the charges were framed or thereafter.

The present case has been registered for the offences punishable under Sections 323/342/365/506/148/149 of the Indian Penal Code. So, it is not a case that the petitioner had suffered any grievous or serious injury. The offence with respect to the assault is only under Section 323 IPC. Even the assault with fists and slap blows, which may not cause any visible injury, can attract Section 323 IPC. So, in these circumstances, the examination of Dr. Hardeep Sharma, another doctor, to prove the medico legal report is not essential to the just decision of the case.

Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned orders.

Thus, the present petition is without any merits and the same is hereby dismissed.

**August 04, 2015**  
**ps**

**(DARSHAN SINGH)**  
**JUDGE**

