

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-33190 of 2015

.....

Date of decision:28.9.2015

Balwinder Singh

...Petitioner

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. L.S. Sidhu, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for setting aside the impugned order dated 28.7.2015 (Annexure-P.10) passed by the learned Sub Divisional Judicial Magistrate, Zira, whereby the application filed by the petitioner under Section 311 Cr.P.C. to recall PW-2 Pippal Singh and PW-3 Jarnail Singh for further cross-examination in FIR No.84 dated 13.5.2013 registered for the offences under Sections 326, 324, 323 and 34 IPC at Police Station Sadar Zira has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application has been filed by the accused under Section 311 Cr.P.C. to recall PW-2 Pippal Singh and PW-3 Jarnail Singh for cross-examination. In the application (Annexure-P.8), it is

stated that on 12.5.2015 accused-applicant concluded cross-examination of above said PWs and they had made improvements in their statements on oath to a large extent than their previous statements given to the Investigating Officer. It is necessary to confront them with their previously recorded statements with the Investigating Officer.

The learned Sub Divisional Judicial Magistrate, Zira, vide impugned order held that the witnesses were examined on 28.4.2015 in examination-in-chief and their cross-examination was deferred on the request of defence counsel and they were cross-examined at length on 12.5.2015. Learned counsel for the defence/petitioner himself closed the cross-examination of the witnesses after very lengthy cross-examination. It is also in the order that PWs have been cross-examined at length and these have been closed to the satisfaction of the defence counsel.

After hearing learned counsel for the petitioner and after going through the record, I also find that in the application (Annexure-P.8) nothing has been mentioned on which fact PW-2 and PW-3 had made the improvements. There is also nothing whether those facts amount to material improvements or not. A simple vague application has been filed asking for recalling of PW-2 and PW-3 for further cross-examination. So, from the application itself, it cannot be held that any material improvement has been made by the PWs. There is also nothing on the record as to why the PWs could not be confronted with their statements recorded under Section 161 Cr.P.C. at that very time when they were already cross-examined at length. Even, in the petition filed under Section 482 Cr.P.C. it is not specifically

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mentioned on which material fact these PWs have made improvements.

Therefore, in view of these facts, I find that the impugned order passed by the Court below is correct and as per law and no interference is required from this Court and the same is upheld.

Therefore, finding no merit in this petition, the same is dismissed.

September 28, 2015.

(Inderjit Singh)
Judge

hsp