

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

**Crl. Misc. No. M-35932 of 2014 (O&M)
Date of decision: 05.01.2015**

Harsh Kharbanda

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Chander Shekhar, Advocate,
for the petitioner.

RITU BAHRI, J.

Crl. Misc. No.39239 of 2014

Annexures P-6 and P-7 are taken on record.

Crl. Misc. application stands allowed accordingly.

Crl. Misc. No. M-35932 of 2014

Challenge in this petition is to the order dated 21.07.2014 passed by the Additional Sessions Judge, Patiala (Annexure P-5) dismissing the revision petition filed by the petitioner against the order dated 12.04.2013 (Annexure P-3) passed by the Sub Divisional Judicial Magistrate, Samana, whereby application filed by the accused-petitioner under Section 311 Cr.P.C. for recalling three witnesses for the purpose of cross-examination, has been dismissed.

The plea of the petitioner in his application under Section 311 Cr.P.C. was that the prosecution witnesses namely Lakhbir Singh, Harmanpreet Singh and Ramandeep Kaur could not be cross-examined due to non availability of his counsel. The trial Court perused the zimni order dated 26.09.2012, wherein presence of counsel for the accused-petitioner was marked. The

application dated 25.09.2012 was filed by Sh. Amrit Lal Aggarwal, counsel for the accused.

Since the counsel had been appearing on behalf of the accused-petitioner, no ground was made out to recall the aforesaid witnesses, as set out in the application.

Learned counsel for the petitioner, in order to substantiate his case, has placed on record copies of the orders dated 22.8.2012 and 25.09.2012 (Annexures P-6 and P-7). Perusal of order dated 22.08.2012 (Annexure P-6) shows that an adjournment was granted to the accused-petitioner subject to payment of Rs.3000/- as costs and the case was adjourned to 25.09.2012. Thereafter, on 25.09.2012, an application for adjournment was made by counsel for the accused-petitioner on the ground that transfer application was pending in the Court of Chief Judicial Magistrate, Patiala. Further, a statement was made by the accused-petitioner that he did not want to give the cost and did not want to cross-examine the witnesses due to the pendency of transfer application. Vide order dated 25.09.2012 (Annexure P-7), the cross-examination of the aforesaid witnesses was treated to be 'nil'. Learned counsel for the petitioner has further informed the Court that the transfer application has also been dismissed.

After perusing the orders dated 22.8.2012 and 25.09.2012 (Annexures P-6 and P-7), no ground is made out to interfere in the impugned orders passed by the Courts below.

Dismissed.

(RITU BAHRI)
JUDGE

05.01.2015
ajp