

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

**Crl. Misc. No. M-37351 of 2015
Date of Decision: 02.11.2015.**

ChandPetitioner

Vs.

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the order dated 9.10.2015 (Annexure P-7) whereby application moved by the petitioner under Section 311 Cr.P.C., was dismissed.

I have heard the learned counsel for the petitioner and have gone through the record available on the file carefully.

Section 311 Cr.P.C. reads as under:-

***“311. Power to summon material witness, or
examine person present.***

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

Thus, in view of the above provision, the Court may at any time recall a witness if it serves the ends of justice.

Petitioner and his co-accused are facing trial qua commission of offence punishable under Section 304-B of the Indian Penal Code, 1860. During the pendency of the trial, petitioner and his co-accused moved an application under Section 311 Cr.P.C. for recalling PW-1 to PW-3 for further cross-examination. The Trial Court while dismissing the application has noticed that PW-1 to PW-3 had been duly cross-examined by the defence counsel. Although, application was filed by the petitioner and his co-accused that their counsel could not effectively cross-examine the witnesses as he was not feeling well but it has been noticed by the Trial Court that no request had been made by the defence counsel to the effect that cross-examination of PW-1 to PW-3 be deferred on account of his ill health. Since PW-1 to PW-3 had been duly cross-examined by the defence counsel, the learned Trial Court had rightly ordered the dismissal of the application moved by the petitioner and his co-accused under Section 311 Cr.P.C. for recalling the witnesses for further cross-examination.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

November 02, 2015
Gurpreet