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

CRM-M-44448 of 2014

Date of decision: January 05, 2015

Harmesh Kumar @ Sodhi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amandeep Singh, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 21.10.2014, whereby application moved by the petitioner under Section 311 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short) for recalling PW6 Sub Inspector Prem Chand for further cross-examination, was dismissed.

Learned counsel for the petitioner has submitted that material questions were liable to be put to PW6 Sub Inspector Prem Chand in his cross-examination. However, due to inadvertence, the said questions could not be put to the witness when he was cross-examined on 21.07.2014. Learned counsel has placed reliance on ***Mannan Sk. and others versus State of West Bengal and another*** 2014 (4) RCR (Crl.) 617, wherein it was held that under Section 311 Cr. P.C., Court has ample power to recall a witness for further examination.

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, as per the above provision, Court has ample power to recall any witness for further examination, if it is necessary, in the interest of justice.

In the present case, PW6 Sub Inspector Prem Chand was examined-in-chief on 16.07.2014. Cross-examination of the said witness was deferred at the request of the defence counsel. The said witness was cross-examined at length on 21.07.2014. Thus, in the present case, PW6 Sub Inspector Prem Chand had been duly cross-examined at length by the defence counsel. The learned trial Court had, thus, rightly dismissed the application moved by the petitioner for re-summoning the said witness for further cross-examination. PW6 could not be re-summoned at the whims of the petitioner. The defence counsel was required to put all the relevant questions to PW6 at the time of his cross-examination.

There is no quarrel to the preposition of law settled by the Apex Court in Mannan Sk. and others' case (supra). However, in the facts of the present case, the said decision fails to advance the case of the petitioner.

Hence, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 05, 2015