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

CRR No.591 of 2015 (O&M)

Date of decision: February 21, 2015

Joga Singh @ Baba

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.S. Gill, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 02.02.2015, whereby application moved by the petitioner under Section 311 of Code of Criminal Procedure, 1973 for recalling Assistant Sub Inspector (ASI)-Sukhdev Singh for cross-examination, was dismissed.

In the present case, PW ASI Sukhdev Singh was examined-in-chief on 04.10.2014 and his cross-examination was deferred at the request of the counsel for the petitioner. On 01.11.2014, witness was present, but the counsel for the petitioner had failed to conduct the cross-examination of the witness. Consequently, cross-examination of PW ASI Sukhdev Singh was ordered to be treated as Nil.

Learned counsel for the petitioner has submitted that ASI Sukhdev Singh was the recovery witness and it was very essential to cross-examine the said witness, otherwise,

petitioner will suffer great prejudice.

Keeping in view the submissions made by learned counsel for the petitioner, it would be just and expedient to grant one opportunity to the petitioner to enable him to cross-examine PW ASI Sukhdev Singh. It has been stated that PW ASI Sukhdev Singh is a recovery witness and in case, petitioner is not allowed to cross-examine the said witness, cause of justice will suffer.

Accordingly, this petition is allowed. Impugned order dated 02.02.2015 is set aside. Trial Court is directed to grant one opportunity to the petitioner to enable him to cross-examine PW ASI Sukhdev Singh subject to payment of ₹10,000/- as costs. Costs be deposited with the District Legal Aid Committee, Patiala. Thereafter, trial Court shall proceed further with the trial in accordance with law.

**(SABINA)
JUDGE**

February 21, 2015

m.singh