

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-11913 of 2016
Date of Decision: 18.11.2016**

Charanpal Kaur

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gaurav Sharma, Advocate
for the petitioner.

Mr. K.S.Aulakh, AAG, Punjab.

Mr. Narinder Singh, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J(ORAL)

This is a petition under Section 482 Cr.P.C. seeking recall of the prosecutrix. The Additional Sessions Judge had dismissed the application moved by the prosecution under Section 311 Cr.P.C.

It is necessary to notice few facts.

An FIR was lodged at the instance of the victim who is 17½ years old. The FIR was registered on 11.7.2014. The victim had named Kulwant Singh who was living in the neighbourhood and was married and had children. The allegations were that Kulwant Singh enticed the girl and took her away and they stayed together in Uttar Pradesh and returned in a train. The allegation was that Kulwant Singh had offered marriage and on return asked her to go home.

The police investigated the case and had filed challan. The prosecutrix had given her statement in the Court on 18.2.2015. She refused

to support the prosecution and was turned hostile. She was cross-examined at length by the Public Prosecutor. Few months later, i.e. in October 2015 the Public Prosecutor moved the application for re-examination of the victim on the ground that the statement given by the prosecutrix in the Court was under threat. The trial Court had dismissed the application and had noted the following:-

“From the perusal of application, it is clear that it is not specifically mentioned as to who had threatened the prosecutrix-complainant not to depose against the accused in the court. Neither any date of such incident has been mentioned by the prosecutrix-complainant in her affidavit. It is clear that the evidence of prosecutrix was completed on 18.2.2015 on which date she had come to the court alongwith her mother who was also examined as PW-2. During her examination in the court, the complainant-prosecutrix did not disclose any such thing. It is clear that this application has been filed after about 8 months of recording the evidence of the prosecutrix. In the application, the name of relatives of the accused, who threatened her, has not been mentioned. It is clear that this application has been filed just to fill up the lacuna in the prosecution case. So, no ground is made out to re-examine Charanpal Kaur PW-1 and accordingly, the application, being without any merit, is dismissed.”

The recall of the witness has been prayed for by the State on the ground that the witness was under threat from the family of the accused and, therefore, she could not make the correct statement and now she wanted to

make the correct statement before the Court.

The trial Court had noted that the application was vague and no details have been given as to who had given the threat and how the threat was extended. I find no infirmity in the order passed by the trial Court. The application has been filed after eight months. It appears that the intention is to fill up the lacuna. A witness cannot be recalled to fill up the lacuna.

Petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

November 18, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No