

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-12297 of 2016(O&M)
Date of Decision: April 08, 2016

Lovely @ Kaku

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mohit Jaggi, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Punjab for setting aside the order dated 18.02.2016 passed by learned Sessions Judge, Patiala, vide which an application filed by the petitioner under Section 311 Cr.P.C. for recalling PW-1 Dr.Jaswinder Singh, Medical Officer, was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application was filed by the accused for recalling PW-1 Dr.Jaswinder Singh for purpose of cross-examination for the reason that earlier counsel has not cross-examined the doctor properly. Learned Sessions Judge, Patiala, after going through the record, held that accused were being represented

by counsel, who had cross-examined the doctor. It is further held by learned Sessions Judge, Patiala that he did not find that the application falls within four corners of Section 311 Cr.P.C., which might have necessitated re-calling of the doctor to face cross-examination and the application was dismissed.

After hearing learned counsel for the petitioner and after going through the record, I find that it is a case under Section 302/34 IPC. The doctor has already been examined in the Court and has also been cross-examined. The copy of the statement of PW-1 Dr.Jaswinder Singh, Medical Officer has been placed on record, who is one of the member of the Board of Doctors, who conducted post-mortem examination. Simple abrasions were found and injuries are not the cause of death. The viscera was sent for chemical examination and after receiving the FSL report, chloro-compound poisoning was found and opinion was given by the Board of Directors. In the cross-examination, PW-1 Dr.Jaswinder Singh has stated that they have given the opinion, solely on the basis of report of FSL. The documents which this doctor proved on record are police application Ex.PA, endorsement of Dr.Krishan Singh, SMO, who had constituted the Board of Doctors Ex.PB, post-mortem report Ex.PC, report of chemical examiner Ex.PD and final opinion given by the Board of Doctors regarding cause of death Ex.PE. There is nothing in the application as to which material question the earlier counsel has not asked in the cross-examination and which material question the petitioner now wants to put to PW-1 Dr.Jaswinder Singh by recalling

him.

As already discussed, the cause of death has been given by the Board of Doctors only on the basis of FSL report where chloro compound poisoning has been found, I find that there is no necessity to recall PW-1 Dr.Jaswinder Singh. It is settled law that mere changing of counsel, is no ground for recalling any witness. Even at the time of arguments before this Court, learned counsel for the petitioner failed to tell as to which material question the petitioner wants to ask to the doctor. Otherwise also, accused is at liberty to examine any other doctor in defence, who was member of the medical board, if he so desires.

In view of the above discussion, I find that the impugned order passed by the Court below is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

April 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE