

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-35114 of 2016
DECIDED ON: SEPTEMBER 30, 2016

VIKAS

....PETITIONER

VERSUS

STATE OF HARYANA.

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vishal Nehra, Advocate
for the petitioner.

JASPAL SINGH, J

By virtue of instant petition preferred under Section 482 Cr.P.C., petitioner has sought quashing of impugned order dated September 14, 2016 (Annexure P-2) passed by learned Principle Magistrate, Juvenile Justice Board, Sonapat (for brevity, 'Board') vide which an application under Section 311 Cr.P.C. for recalling of further cross-examination of PW-2 Basant and PW-4 Bittu, has been dismissed.

The contention of learned counsel for the petitioner is that though PW-2 Basant, who is complainant and PW-4 Bittu, an eye witness were examined in the learned trial Court in the Month of May, 2016 but they could not be cross-examined on the material points with regard to the causing of injuries on the person of complainant/injured, as well as with regard to the place

of occurrence. This lapse or omission has occurred just due to the reason that the petitioner is a simple person and is not aware of the technicalities of law. He also could not brief his counsel with regard to the history of the case regarding which also certain material questions escaped from putting to the afore-said witnesses. Learned counsel for the petitioner further contends that the rules and procedure are hand made of justice and meant for advancing cause and course of justice. Moreover, the powers enshrined under Section 311 Cr.P.C. could be used at any stage including at appellate stage. In case the application for recalling of further examination of above-stated witnesses is not allowed, it is likely to cause a great prejudice to the petitioner.

This Court has given an anxious thought to the afore-said submissions made by learned counsel for the petitioner but find the same to be without any legal weight.

No doubt an application under Section 311 Cr.P.C. can be moved at any stage, even during the pendency of appeal and further that a liberal construction should be given to impart justice to the parties. But at the same time it is required to be used with care, caution and circumspection.

Adverting to the facts of the case in hand, PW-2 Basant and PW-4 Bittu stand already examined in the Month of May, 2016. They were subjected to a lengthy cross examination touching each and every aspect of the case but subsequently, an application under Section 311 was moved on August 05, 2016. Even, a perusal of the said application transpires that there is no specific averment as to on which points, the afore-said witnesses could not be cross-examined. Otherwise also all the assertions or averments made in the application are vague and indefinite. Since, the witnesses have already been

cross-examined at length and there is nothing specific about the questions, which are alleged to have left out by the defence. This Court is of the considered view that an application moved by the complainant has rightly been declined by the Board.

Since, there is no illegality or impropriety in the impugned order dated September 14, 2016 and further that an application under Section 311 Cr.P.C. appears to have been moved just to delay the disposal of the matter pending before the Board, this Court does not find any merit in the instant petition.

Accordingly, instant petition stands dismissed.

SEPTEMBER 30, 2016
sham

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*