

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37985-2016

Date of decision: November 18, 2016.

Sona Singh @ Sonu

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Ashok Kumar Sama, Advocate for the petitioner.
Ms. Rajni Gupta, Additional AG, Punjab.

A.B. Chaudhari, J. (Oral):

Notice of motion to the respondent-State. Service is dispensed with.

Rule. Heard forthwith with the assistance of learned counsel for the rival parties.

By the present petition, there is a challenge to the order dated 2.9.2016 under Section 311 Cr.P.C. rejecting the application filed by the accused-petitioner for recall of witness PW6 for cross examination in FIR No.83 dated 4.6.2015, under Section 302, 364, 201 IPC, PS Jalalabad.

Undoubtedly, this is a sessions trial for the offence of murder, which is a serious offence. PW6 was examined before the trial court but it appears that on that date, there was a strike by the lawyers. However, the counsel for the petitioner has produced before me the application wherein there are averments that the concerned Advocate, who was to cross examine the witness PW6, was suffering from kidney pain and was therefore unable

to attend the Court. Without going into the said aspect, as to whether there was a strike or whether the Advocate was unwell, I find that PW6 cannot be allowed to go without cross examination in a serious offence of murder. But then, the petitioner will have to bear reasonable expenses for being paid to the State of Punjab as fault lay with the petitioner and not with the State and particularly because PW6 comes from a distance place.

In that view of the matter, the impugned order is set aside and the petition is allowed. PW6 Maninder Singh shall be recalled for further cross examination by the accused by way of last chance, subject to deposit of Rs.2,000/-, to be payable to the State of Punjab, which shall be a pre-condition for recalling the witness.

[A.B. Chaudhari]
Judge

November 18, 2016.
kadyan

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No