

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

CRM No.M-40227 of 2014

Date of decision: January 18, 2016.

Jagdish Kaur

... **Petitioner**

v.

Sakattar Singh

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Ms. Manjit Kaur, Advocate for
Mr. Karanjit Singh, Advocate for the petitioner.

None for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Request for adjournment is declined.

Impugned in the present petition is the order dated 20.10.2014 passed by learned Judicial Magistrate 1st Class, Amritsar vide which the application under Section 311 Cr.P.C. for recalling the complainant for cross examination, was dismissed on the ground that the court cannot review its own order.

I have heard Learned Counsel for the petitioner.

It has come out that a complaint under Section 138 of the Negotiable Instruments Act, 1881 is pending before the Judicial Magistrate 1st Class, Amritsar. On the date of examination of the complainant, the accused absented himself, therefore, the cross

examination was treated as nil. The accused moved an application under Section 311 Cr.P.C. for cross examination of the complainant.

I am of the view that when the accused was not present nor his counsel was present, the witness should not have been examined in the manner done by the Magistrate. Once the accused has appeared and seeks the permission to cross examine the complainant, the court should allow the opportunity as valuable rights of the accused are involved. In the absence of cross examination of the complainant, statement of the complainant alone may lead to conviction of the accused. As such, the impugned order is set aside. The application to recall the complainant for cross examination is allowed.

The petition is accordingly allowed.

January 18, 2016.
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[Kuldip Singh]
Judge