

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40647-2015 (O & M)
Date of decision:11.04.2016

Mahinder Gupta

...Petitioner(s)

Versus

State of Punjab and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Amit Dhawan, Advocate,
for the petitioner(s).

Mr. K.S. Pannu, DAG, Punjab.

Rajan Gupta, J. (oral)

Challenge in this petition is to order passed by the trial court dated 29.10.2015 whereby application moved by the petitioner for recalling two witnesses namely Satnam Singh and Harpreet Kaur for cross-examination has been declined. Learned counsel has assailed the order.

According to him, Section 311 Cr.P.C. confers wide powers to recall the witnesses for examination/cross-examination if it appears necessary for just decision of the case. The trial court has erroneously rejected the application ignoring the fact that both the witnesses have not been properly cross-examined by the counsel representing the petitioner earlier. An application has also been filed along with the affidavit of the petitioner that now he is being represented by another counsel.

It appears that the complaint was lodged by the complainant alleging that a seven years' son had been kidnapped by the accused.

He, thus, lodged the FIR with the police. Investigation ensued and challan was presented before the court. The child was, admittedly, recovered from Aligarh. Satnam Singh and Harpreet Kaur have deposed in the witness box as PW-1 and PW-2.

On perusal of cross-examination of PW-1 and PW-2, I find that there is substance in the plea of the petitioner. Both the witnesses need to be recalled for the purpose of cross-examination. The trial court order declining application under Section 311 Cr.P.C. is, thus, set aside. Both the witnesses be recalled and one opportunity be granted to the petitioner to cross-examination these witnesses.

Petition is allowed in these terms.

11.04.2016
sukhpreet

(RAJAN GUPTA)
JUDGE