

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-9537 of 2016 (O&M)
Date of Decision: March 17, 2016

Suresh Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

1. To be referred to the Reporters or not? **YES**
2. Whether the judgment should be reported in the Digest? **YES**

Present: Mr.Kulvir Narwal, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the impugned order dated 10.03.2016 passed by learned Addl. Sessions Judge, Hisar, vide which the application under Section 311 Cr.P.C. filed by accused-petitioner 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 under Section 311 Cr.P.C. for re-examination of witnesses on the ground that said witnesses were earlier examined but at that time, due to pressure of relatives and police, they deposed in favour of the prosecution. However, now these witnesses approached the family members of accused as their conscious has been pricked, as they

have wrongly made deposition before the Court. It is also in the application that witnesses had given their affidavits duly sworn, on 19.02.2016 in the Court itself which were attested by Notary Public, in which, it has been found mentioned that the evidence given in the Court was due to pressure of villagers and police and now they want to repent by giving true version.

After taking the reply, learned Addl. Sessions Judge, Hisar, vide impugned order dated 10.03.2016 dismissed the application.

I have gone through the impugned order dated 10.03.2016 passed by learned Addl. Sessions Judge, Hisar. I find that the impugned order is correct and as per law. Learned Addl. Sessions Judge, Hisar has discussed the law laid down by the Hon'ble Supreme Court in ***Mishrilal and others vs. State of M.P. and others, 2005 AIR (SCW) 2770***, in which it is held as under:-

“6. In our opinion, the procedure adopted by the Sessions Judge was not strictly in accordance with law. Once the witness was examined-in-chief and cross-examined fully, such witness should not have been recalled and re-examined to deny the evidence he had already given before the Court, even though that witness had given in inconsistent statement before any other court or forum subsequently.”

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In view of the above law, which is relied upon by learned trial Court, I find that no illegality has been committed while passing the impugned order. Once the witnesses have been examined and cross-examined, they cannot be recalled to deny the evidence already given by them. They can only be confronted at the time of their

examination with the previous statements as per law. Even, they cannot be confronted with the statement recorded subsequently.

In view of the above discussion, I find that the impugned order dated 10.03.2016 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.

March 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE