

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.1039 of 2016

Date of decision: 18th May, 2016

Harbhajan Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. H.S. Rakhra, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

Convict/petitioner Harbhajan Singh by way of this revision petition has sought to impugn an order dated 19.10.2015 of learned Additional Sessions Judge, Patiala whereby application moved by the petitioner under Sections 391/311 Cr.P.C. to recall and re-examine PW1 Sandeep Taylor stood declined and dismissed.

The contentions of learned counsel for the petitioner Mr.H.S. Rakhra, Advocate that the Court below has failed to judiciously consider the prayer of the petitioner and has declined to summon a material witness whose examination would have a definite bearing on the outcome of the case of the petitioner. The stand of the petitioner in his application moved before the learned first appellate Court which has led to passing of the impugned orders is to the effect that the revisionist

Harbhajan Singh who is alleged to have duped the complainant on the promise of being authorized person to sell the land of the owner-Company had sought to project that the application moved by the complainant to the Senior Superintendent of Police, Patiala was two years after the incident and to hammer home the point that the Court has sought to bring about civil dispute into a criminal case. The mere premise that has sought to be raised is that the complainant as PW1 could not be comprehensively cross-examined by the defence and that certain contradictory suggestions have been put to him and so made the prayer to recall this PW. The same does not certainly legitimizes the prayer of the petitioner. The mere purpose of Section 391 Cr.P.C. is wherever it is legally justified and necessary as the Court may think additional evidence is necessary, the Court may do so even at the appellate stage after recording its reasons. Neither it is there in the prayer of the revisionist in his application before the first appellate Court nor the counsel could impress upon this Court how such an evidence was essential for just decision of the case. A party cannot be allowed to undo the effects of earlier evidence by mere resorting to such a process which is highly illegitimate and uncalled for. There is nothing material in the application. The learned Court below in the impugned order has rightly considered that there was no justification if such a recall was essential for just decision of the case.

In the totality of the same, apparently there is neither any legal justification nor there is any illegality or impropriety in the findings in question. The revision being hopelessly without merit stands dismissed in limine. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

May 18, 2016
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No