

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 3493 of 2014
DECIDED ON: December 14, 2016

SHIV KUMAR

.....PETITIONER..

VERSUS

STATE OF PUNJAB & OTHERS

....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

Ms. Isha Goyal, Advocate,
for respondent No.2.

JASPAL SINGH, J.

Challenge in this revision petition is to the order dated 18.04.2013 passed by Additional Sessions Judge, Amritsar vide which an application moved under Section 311 of the Code of Criminal Procedure by the petitioner for summoning Raj Khosla, Authorised Representative of EMC Hospital, Amritsar has been dismissed.

2. Concededly, Dr. Rajesh Mahajan, who had examined injured Chander Mohan and gave opinion with regard to the nature of injuries has since been taken away by the nature. Raj Khosla, Record Keeper, who is Authorised Representative of EMC Hospital was sought to be summoned by the petitioner by moving an application under Section 311 Cr.P.C. but that application was declined just on the ground that Raj Khosla can only identify the signatures of

Dr. Rajesh Mahajan but cannot prove the opinion and further that the accused will not have the opportunity to cross-examine the official concerned which would cause prejudice to him. But the grounds taken by the Additional Sessions Judge, Amritsar while dismissing the application are not convincing. The evidentiary value of the evidence, which has been sought to be brought on record by the petitioner, can only be seen by the trial court at the time of final stage and prior to that no such opinion can be expressed. Since, Dr. Rajesh Mahajan is no more in this world, the opinion, if any, with regard to the nature of injuries sustained by the injured Chander Mohan can be proved by examining concerned official, who has worked with him and is conversant with his handwriting and signatures.

3. Thus, this Court finds that the dismissal of the application is not legally justified. Accordingly, impugned order dated 18.04.2013 is set aside. Resultantly, application stands allowed and the petitioner shall be afforded two effective opportunities by the trial court to summon and examine Mr. Raj Khosla along with record including opinion given by Dr. Rajesh Mahajan from the concerned hospital.

4. Revision petition stands disposed of accordingly.

December 14, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: **Yes**

Whether reportable: **Yes/No**