

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

CRR No. 327 of 2016

Date of decision : 27.01.2016

Babu Lal

....Petitioner

V/s

State of Haryana & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Raman Chawla, Advocate for the petitioner.

RAJAN GUPTA J.

Present revision petition is directed against the order passed by Additional Sessions Judge, Hisar whereby he has allowed the application moved by accused Sonu & Bir Singh for recalling PW-4, Sapna for further cross-examination.

Learned counsel for the petitioner has assailed the order. According to him, statements recorded under section 161 or 164 Cr.P.C. in another case would have no bearing on the instant trial. Besides, trial court has erred in appreciating the entire factual aspects in correct perspective. The order is, thus, vitiated.

I have heard learned counsel for the petitioner.

Accused are facing trial in a murder case. During pendency of trial, prosecution moved application under section 311 Cr.P.C. for summoning a witness namely Sapna. She appeared as PW-4 and deposed before the court. She was cross-examined by counsel for the accused. Shortly thereafter, instant application was moved on the ground that the concerned counsel had not confronted the said witness with her statements recorded under

section 161/164 Cr.P.C. pursuant to FIR No. 753 registered under section 376 IPC at police station City Hansi. The court had allowed the application observing that power under section 311 Cr.P.C. can be exercised at any stage of the case and a liberal view has to be taken. I find no infirmity with the order. It is evident that the court can summon, recall or re-examine a person already examined if his evidence appears to be essential to just decision of the case. This is envisaged by section 311 of the Cr.P.C. The power vested in the court can be exercised liberally keeping in view facts and circumstances of a given case.

Under the circumstances, there is no merit in the revision petition. Dismissed.

January 27, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Referred to Reporter : Yes