

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

CRR-3764-2016

Date of decision: 25.10.2016

Jaswant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Rahul Bhargava, Advocate for the petitioner

SNEH PRASHAR, J.

The present revision petition has been filed for setting aside the order dated 2.8.2016 passed by learned Judicial Magistrate, 1st Class, Jalandhar vide which application filed under Section 311 of the Code of Criminal Procedure by the petitioner for recalling PW3 Divya for further cross-examination was dismissed.

Heard.

Notice of motion.

On asking of the Court, Mr. Neeraj Sharma, Assistant Advocate General, Punjab accepts notice on behalf of the State.

Learned counsel for the petitioner submits that PW3 Divya is a material prosecution witness and if the petitioner is not given a chance to cross-examine her, he will suffer an irreparable loss. He further submits that the petitioner is ready to pay the expenses for air travel of the witness from Bombay to Phillaur for appearing in the court

for her cross-examination.

Since, PW3 Divya is a material prosecution witness and the petitioner had failed to cross-examine her for non-availability of his counsel on the day her statement was recorded, it shall certainly prejudice the rights of the petitioner, if her statement is allowed to remain without cross-examination.

Considering the submissions made, the instant petition is allowed and the petitioner is granted one opportunity to cross-examine PW3 Divya, who is residing at Bombay. The petitioner shall pay for her air ticket from Bombay to Chandigarh and then for travelling from Chandigarh to Phillaur by road through taxi (to and fro). However, it is made clear that in case the petitioner fails to complete the cross-examination of the witness on the date fixed by the court when she puts in appearance, no further opportunity shall be given to the petitioner.

25.10.2016
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No