

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

**CRR No. 3815 of 2016
DECIDED ON: OCTOBER 18, 2016**

KARAMBIR & OTHERS

.....PETITIONERS

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Rajat Mor, Advocate
for the petitioners.

JASPAL SINGH, J. (ORAL)

Challenge in this revision petition is to order dated October 03, 2016, passed by Learned Additional Sessions Judge, Karnal, whereby, an application moved by the prosecution under Section 311 Cr.P.C. for summoning Rajinder Kumar and Surinder @ Seema and for recalling of Vineesh Bansal; has been allowed.

The contention of learned counsel for the petitioner is that Surinder @ Seema has not been cited as prosecution witness in the list of witnesses annexed with the report under Section 173(2) Cr.P.C. Her introduction in the case is an after thought. In fact, prosecution has cooked up its false story to establish the same, the examination of witnesses has

been sought. The impugned order is not sustainable in the eyes of law, as it is against letter and spirit of Section 311 Cr.P.C. In fact, through an application moved under Section 311 Cr.P.C. prosecution has sought to fill up lacunae left in the case. The allowing of application vide impugned order causes a serious prejudice to the accused who are facing the trial.

This Court has given a deep thought to the submissions made by learned counsel for the petitioners but found the same to be without any legal and factual substance.

The mere fact that a witness sought to be examined is not cited as a prosecution witness in the list of witnesses is itself no ground to decline the application. Section 311 Cr.P.C provides vast powers to the Court(s) to summon any person as a witness who is connected with the case and whose examination is essential for the proper and effective adjudication of the controversy. In the case in hand, Surinder @ Seema is none else but the wife of one of the deceased. Even-though, her statement has not been recorded by the police under Section 161 Cr.P.C. Yet if, she has some knowledge about the occurrence and the manner, in which, it took place, she is a material witness.

Similarly, as far as Rajinder Singh is concerned, he has been summoned alongwith details of mobile phones of the witnesses, deceased and the accused which would certainly throw light on the prosecution case. Equally, recalling of Vineesh Bansal also cannot be said to be an after thought or just to fill up the lacunae.

This Court has also scrutinized the impugned order but does not find any infirmity or illegality. Rather, the same is absolutely in

consonance with the proposition of law applicable to the facts and circumstances of the case. Finding no merit in the instant petition, the same is dismissed.

OCTOBER 18, 2016
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(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned *Yes/No*

Whether Reportable *Yes/No*