

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

Crl. Rev. No.4118 of 2016 (O&M)

Date of decision : 09.11.2016

Mintu Singh

.....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harminder Singh, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

This revision is directed against the order passed by the Addl. Sessions Judge, Bathinda who dismissed the application filed by the accused seeking recall of the prosecutrix.

I have heard the counsel for the petitioner at great length.

An FIR had been registered in January, 2015. Challan was presented in April, the same year. The examination-in-chief of the prosecutrix was recorded. Her cross-examination was got deferred on the request of the defence counsel in May, 2015. The statement of Phul Singh, father of the victim was also recorded on the same day. His cross-examination was also got deferred. The statement of the prosecutrix was completed in June, 2015. However, the cross-examination on Phul Singh was conducted on 07.01.2016. In February, 2016 the accused moved an

application seeking recall of the victim for further cross-examination on the ground that the statement given by the father of the victim was inconsistent on some aspects and that her statement was different to the statement which she had given under Section 164 Cr.P.C. and that PW4 - Phul Singh had pressurized the victim to tow his line and therefore, it was necessary to further cross-examine her.

The trial Court dismissed the application and rightly so. A victim of a crime cannot be unduly harassed or recalled on the mere asking. The accused had been unable to give any reason for recall. The fact that there is some inconsistency in the two statements can be highlighted by the defence at the argument stage. The Provisions under Section 311 Cr.P.C. can be invoked only when it is essential for the just decision of the case. The power cannot be exercised to fill in a lacuna. The power can be invoked only in order to meet the ends of justice for strong and valid reasons. The statements made available on record show that the defence had intentionally not cross-examined the prosecutrix and her father on the day they had appeared and they got the statements deferred. It appears to be a scheme of the defence strategy. The witnesses cannot be routinely permitted to recall a witness on the mere asking. I find no merit in the petition.

The petition is dismissed in limine.

09.11.2016

Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No