

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

CRM No.M-14401 of 2017 (O&M)

Date of Decision: July 13, 2017

Sukhdev Kalyan @ Chiddi and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arn timer Sood, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing the order dated 24.03.2017 passed by learned Addl. Sessions Judge, Jalandhar, dismissing the application filed by the petitioner under Section 311 Cr.P.C.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that an application was filed by the petitioner under Section 311 Cr.P.C. during trial in case FIR No.98 dated 17.06.2014 under Sections 302, 307, 326 and 34 IPC. In the application, it is stated that on 26.02.2012, Rahul was examined as PW-1 but some questions regarding the occurrence could not be put to him. It is also stated that some new facts and developments in the present case have occurred,

which are necessary to be put to Rahul in his further cross-examination, as

he has executed one affidavit dated 21.12.2016 before Executive Magistrate, Jalandhar qua the occurrence.

Learned Addl. Sessions Judge, Jalandhar, after discussing the facts of the case and law, dismissed the application, vide order dated 24.03.2017.

The perusal of the impugned order shows that firstly no specific averments have been made that which questions have been left to be asked in the cross-examination to Rahul. I have gone through the statement of Rahul. He has been cross-examined in detail. A lengthy cross-examination running into 2½ pages was conducted upon him by learned counsel for the accused-petitioner. As nothing has been mentioned that which questions have been left and how they are relevant and material, the averments in the application are vague. Secondly, qua affidavit executed by Rahul on 21.12.2016 before the Executive Magistrate, I find that it is to be treated as subsequent statement. Rahul was cross-examined on 26.02.2016 and this affidavit is of 21.12.2016. As per Section 145 of the Indian Evidence Act, the witnesses can be confronted to his prior statement only. As this affidavit is of 21.12.2016, even witness cannot be cross-examined or contradicted with the averments given in the affidavit which is a subsequent statement. Otherwise also, material witness cannot be recalled after completion of his statement unless some material questions are left and there is some explanation as to why these questions could not have been put to the witness at that time. Otherwise, after putting pressure upon the witness or by some inducement, the witness may give statement favouring the accused. The provisions of Section 311 Cr.P.C. are to be used in furtherance of administration of justice and not otherwise.

In view of the above discussion, I find that the impugned order dated 24.03.2017 passed by learned Addl. Sessions Judge, Jalandhar, is correct, as per law. In no way, it can be held that passing of impugned order amounts to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

July 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes