

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

CRM-M-35480-2017 (O&M)

Date of decision: - 21.9.2017

Harjit Singh and others

.....Petitioners

versus

The State of Punjab

.....Respondent

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Vijay Rana, Advocate for the petitioners.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the impugned order dated 5.7.2017 (Annexure P-6) vide which trial Court, in an application filed by prosecution under Section 311 Cr. P.C., has allowed the summoning of prosecution witnesses namely Dr. Jasmeet Walia, Radiologist, Civil Hospital, Jalandhar, MHC/HC Satish Kumar No. 183, HC Premjit Singh No. 92 HC Karnail Singh No. 714 and to re-examine PW-3 Smt. Gurbax Kaur.

Learned counsel for the petitioners, at the very outset, submits that he does not press his prayer qua the four official witnesses named above, however, he has challenged the order with regard to permission granted by the trial Court for re-examination of PW-3 Smt. Gurbax Kaur.

Notice of motion.

On the asking of the Court, Mr. Kirat Singh Sidhu, DAG, Punjab, present in Court, accepts notice.

Since, learned counsel for the petitioners has not contested the application with regard to four witnesses, which has been allowed by the trial Court, and has only challenged the order with regard to re-examination of PW-3 Smt. Gurbax Kaur, this petition is decided today itself to avoid any delay in trial. A perusal of the statement of PW-3 Smt. Gurbax Kaur, dated 20.7.2016 (Annexure P-4) shows that while recording her examination-in-chief she had fully supported the prosecution version. However, when her cross-examination was conducted on 9.2.2017, she had replied certain questions which are favoring the accused persons and, therefore, it is submitted on behalf of the petitioners that since in the examination-in-chief, this witness has fully supported the prosecution version, the evidence of this witness, i.e. examination-in-chief as well as cross-examination, will be seen by the trial Court in totality while appreciating the same at the time of final disposal of the trial. Accordingly, it is submitted that prosecution cannot be allowed to re-examine this witness to fill up the lacuna.

On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioners.

After hearing learned counsel for the parties, I find that the impugned order dated 5.7.2017, qua allowing the re-examination of PW-3 Smt. Gurbax Kaur, is not sustainable as the entire prosecution version has been supported by her while deposing in examination-in-chief and in the cross-examination, she has shown some favour towards the petitioners-accused, the same will not be read in isolation and entire statement will be read by the trial Court at the time of final disposal.

Accordingly, the impugned order dated 5.7.2017 (Annexure P-6) is

partly allowed, qua allowing the re-examination of PW-3 Smt. Gurbax Kaur, however, the order passed by trial Court allowing the summoning of four official witnesses as notice above is upheld.

Disposed of as above.

21.9.2017
preeti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No