

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

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CRM-M-47311-2017

Date of Decision: 13.12.2017.

Raj Kumar

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Gursimran Singh Madaan, Advocate for the petitioner.

Ramendra Jain, J.(Oral)

Through the instant petition under Section 482 of the Criminal Procedure Code (for short, 'Cr.P.C.'), order dated 23.10.2017 (Annexure-P6) of the Revisional Court, setting aside the order dated 24.04.2017 (Annexure-P5) of the trial Court dismissing the application of the prosecution under Section 311 Cr.P.C. and simultaneously allowing the prosecution to summon the prosecution witnesses for their examination/ re-examination.

Learned counsel for the petitioner inter-alia contends that the trial Court vide order dated 24.04.2017 (Annexure-P5) has rightly dismissed the application of the prosecution under Section 311 Cr.P.C. considering the fact that the prosecution did not conclude its evidence despite availing three effective opportunities. Since the said order is interlocutory order, therefore, the revisional Court had no jurisdiction to set aside the same in revision by the prosecution in view of the law laid down in **Uppal Credit and**

Investment Pvt. Ltd. vs. Ashwani Kumar, 2016(2) R.C.R. (Criminal) 684;
Rohit Uppal vs. State of Punjab and others, 2017(2) R.C.R. (Criminal)
310; and Sethuraman vs. Rajamanickam, 2010(5) R.C.R. (Criminal) 512.

Having given considerable thoughts to the submissions made by learned counsel for the petitioner, be that as it may, even if the revisional Court has no jurisdiction to set aside the impugned order, this Court is of the considered opinion that the application of the prosecution under Section 311 Cr.P.C. for examination/re-examination of the prosecution witnesses, is liable to be accepted despite the fact that it did not conclude its evidence despite availing 43 effective opportunities, but subject to some exemplary costs.

In view of discussion made above, the application of the prosecution filed under Section 311 Cr.P.C. invoking powers of this Court under Section 482 Cr.P.C. is allowed, subject to costs of Rs.20,000/- to be paid to the petitioner-accused against receipt.

The instant petition is disposed of without issuing notice to the respondent with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondent and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order within a period of one month from today.

(RAMENDRA JAIN)
JUDGE

13.12.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No