

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

CRR No.1875 of 2015.
Decided on:-July 26, 2017.

Ujjagar Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. V.D. Sharma, Advocate
for the petitioner.

Mr. Nakul Sharma, Advocate
for respondent No.2.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition impugning the order dated 25.03.2015 passed by learned Additional Sessions Judge, Fatehgarh Sahib, whereby the application under Section 311 Cr.PC filed on 05.02.2015 for recalling Harinder Singh (PW1) and Sewa Singh (PW2) for further cross-examination, was dismissed.

Learned counsel for the petitioner has argued that though Harinder Singh (PW1) and Sewa Singh (PW2) were cross-examined, but the counsel appearing on behalf of the complainant was neither a Public Prosecutor nor Assistant Public Prosecutor nor was Special Public Prosecutor, but he had been interfering in the cross-examination of these witnesses.

On the other hand, learned counsel for the respondent-

complainant has argued that ample opportunities were granted to the petitioner to cross-examine Harinder Singh (PW1) and Sewa Singh (PW2) and filing of application under Section 311 Cr.PC is nothing but is an oblique motive so as to delay the proceedings and to fill up the lacuna.

I have heard learned counsel for the parties.

No doubt, on 18.04.2014, Harinder Singh (PW1) was cross-examined, but due to shortage of time, his cross-examination was deferred to 02.05.2014 and 16.05.2014. Similarly, Sewa Singh (PW2) was cross-examined on 05.08.2014. In this manner, the cross-examination of both these witnesses was completed on 05.08.2014. But in view of the law laid down by Hon'ble Supreme Court in ***Rajaram Prasad Yadav Versus State of Bihar and another 2013(3) RCR (Criminal) 726*** and having considered the provisions of Section 311 Cr.PC, which are required to be applied liberally, but at the same time, balance is required to be maintained, this Court feels that the ends of justice would be met if one more effective opportunity is granted to the petitioner to cross-examine Harinder Singh (PW1) and Sewa Singh (PW2).

Therefore, in the peculiar facts and circumstances of the case, the present application is allowed. The impugned order dated 25.03.2015 passed by learned trial Court is set aside.

Accordingly, the trial Court is directed to provide one effective opportunity to the petitioner to cross-examine Harinder Singh (PW1) and Sewa Singh (PW2) subject to payment of cost of Rs.5,000/-. The cost shall

be deposited by the petitioner with the Punjab State Legal Services Authority, Fatehgarh Sahib and deposit of cost shall be a condition precedent for recording the cross-examination of the aforementioned witnesses.

July 26, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No