

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

CRR No. 2639 of 2016(O&M)

Date of decision: 28.4.2017

Mewa Singh

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Yogesh Goel, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 27.05.2016 whereby application filed by the petitioner for recalling Gurvinder Kaur (PW-2) for her further cross examination in respect of facts incorporated in a civil suit filed by Paramjit Kaur, her mother has been dismissed.

Counsel for the petitioner would submit that a false case has been registered against Mewa Singh. Paramjit Kaur, mother of the prosecutrix has filed a civil suit wherein it has been averred that Gurvinder Kaur - prosecutrix was forced to get lodge an FIR against Sh. Mewa Singh. It is further submitted that a serious prejudice shall be caused to the petitioner in case the prosecutrix is not recalled for her further cross examination with regard to the facts pleaded in the civil suit filed by Paramjit Kaur. Another submission made by counsel is that Gurvinder Kaur – prosecutrix is present in the Court and she has got no objection if she is recalled for her further cross examination for the aforesaid purpose.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

The learned trial Court in para 3 of the impugned order, in the concluding line, has held that in garb of further cross examination, accused cannot be allowed to demolish case of the prosecution. Paramjit Kaur is none else but wife of Mewa Singh indicted in the crime. Keeping in view facts and circumstances of the case coupled with the factum that the prosecutrix is also present in this Court to support case of the petitioner, observations recorded by the trial Court gets substantiated that the prosecutrix is being recalled to allow her an opportunity to resile from her earlier version. The provisions of Section 311 Cr.P.C. cannot be used for an ulterior purpose of allowing a witness to turn hostile or resile from her earlier statement. That being so, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, the petitioner shall be at liberty to adduce any evidence in defence, in accordance with law.

APRIL 28, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no