

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

CRR No. 1152 of 2017(O&M)

Date of decision: 27.3.2017

Sonu

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Arvind Kashyap, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 27.02.2017 passed by the Additional Sessions Judge, Pathankot whereby application filed by the petitioner under Section 311 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') for recalling the prosecutrix has been dismissed.

Counsel for the petitioner has submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. had stated that she went to her hut, the accused pushed her away and she received injury. The petitioner wants to put question to the witness "i)Whether she got conducted her medical examination of injuries?", therefore, recalling of the prosecutrix is necessary in the interest of fair trial.

I have heard counsel for the petitioner and perused the paper-book but find that the petition is devoid of merit and warrants dismissal.

The trial Court dismissed the application with the observation that no reasons have been assigned as to why the witness should be

recalled. The petitioner has placed on record an affidavit dated 22.02.2017 purported to be executed by mother of the prosecutrix. It appears that as the petitioner has been able to influence the complainant party subsequent to recording of evidence of the prosecutrix before the Court, the present application was filed in order to derive benefit of any such settlement between the accused and mother of the prosecutrix. Such an ulterior object can never be allowed to be achieved by a party in exercise of discretion under Section 311 Cr.P.C.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

MARCH 27, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

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