

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

CRR-1257-2017 (O&M)
Date of Decision: 02 August, 2017

RAM AASRA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Ms. Neha Bakshi, Advocate for
Mr. N.S. Lucky, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

H.S. MADAAN, J. (Oral):

This revision petition is directed against the order dated 17.03.2017, passed by the Judicial Magistrate Ist Class, Jalandhar, vide which, application under Section 311 Cr.P.C filed by the accused for recalling PW-1 Dr. Raj Kumar Badhan alongwith record, had been dismissed.

Brief facts of the cases are that FIR No.187 dated 06.10.2012, under Sections 323, 324, 148 and 149 of Indian Penal Code (hereinafter referred to as 'IPC'), was registered against Ram Asra and others. The

accused party had also suffered injuries in that incident, in respect of which, cross version of the above mentioned FIR was also recorded. The challan was filed and trial started, during the course of which, statement of Dr. Raj Kumar Badhan was recorded as PW-1. The main grouse of the petitioners is that the MLRs of Ram Asra and Ravi Kumar-accused, who have suffered injuries in that incident, could not be put to Dr. Raj Kumar Badhan inadvertently. Therefore, an application for recalling him was filed but that was dismissed by the trial Magistrate.

I have heard learned counsel for the petitioners, learned State counsel besides going through the record.

I am of the considered view that the impugned order is bound to be set aside, since keeping in view the facts and circumstances, trial Magistrate ought to have allowed the application for recalling PW-1 Dr. Raj Kumar Badhan so as to enable the accused to put the MLRs of Ram Asra and Ravi Kumar to the said witness, but that application was wrongly declined by the trial Court.

Therefore, the revision petition is accepted, the impugned order is set aside and the trial Court is directed to recall PW-1 Dr. Raj Kumar Badhan with record so as to enable the petitioners to put the MLRs of Ram Asra and Ravi Kumar to him and then, the State counsel be permitted to re-examine/cross-examine the witness in that regard.

The trial Court would fix a date for that purpose and thereafter, the trial may proceed.

A copy of this order be sent to the trial Court for information and necessary action.

The petition is allowed, accordingly.

(H.S. Madaan)
Judge

02.08.2017
Nisha-I

Whether speaking/reasoned: Yes

Whether Reportable: No