

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Rev. No.263 of 2017(O&M)

Date of Decision: February 07, 2017

Hari Kishan @ Bhagat Ji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Abhimanyu Singh, Advocate
for the petitioner.

Amol Rattan Singh, J. (Oral)

CRM No.3649 of 2017

By this application, copy of the application filed under Section 311 Cr.P.C., is sought to be placed on record as Annexure P-3.

Application is allowed, subject to all just exceptions.

Annexure P-3 is permitted to be taken on record.

CRR No.263 of 2017

By this petition, the order of the learned trial Court dismissing the aforesaid application filed under Section 311 Cr.P.C., seeking recalling of PW-5 for cross-examination, has been challenged.

Learned counsel for the petitioner submits that the complainant himself having been declared to be hostile, the petitioner simply wants to cross-examine him, as allegedly “some material and relevant questions” were left to be put to him, as stated in the application filed before the learned trial Court.

Having considered the aforesaid argument made by the learned

counsel on the previous date and today, on specific query, learned counsel submits that PW-5 was examined before the trial Court on 05.04.2016, on which date he was declared hostile, after which he was cross examined by the public prosecutor.

On further query, learned counsel has also produced in Court a copy of the testimony recorded on 05.04.2016, showing therein that at the initial stage itself, the said witness was declared to be hostile and thereafter was cross examined by the learned APP.

Further cross-examination, it is seen, was deferred on that date and was obviously conducted thereafter and though the second part of the cross-examination conducted on a different date has not been produced in Court, however, the order of the learned trial Court dated 05.04.2016, beneath the cross-examination of the witness conducted on that date, shows that the examination-in-chief was deferred for want of case property. (The cross-examination by the APP, has been duly reflected as cross-examination. However, thereafter, it has been referred to as the examination-in-chief in the order of the trial Court therein.)

The application seeking recalling of the aforesaid witness who had been declared hostile on 05.04.2016, was filed in the month of November, 2016, as submitted by the learned counsel, though the application which has been taken on record today carries no date on it.

However, learned counsel has also produced in Court today, a copy of the reply filed by the State to the aforesaid application before the learned trial Court, which is dated 18.11.2016.

Obviously, therefore, despite there having been ample opportunity available with the petitioners' counsel to have examined the witness who had been declared hostile at the outset, and he having not done so and the application having been moved at the fag end of the trial, in the opinion of this Court, it has been correctly dismissed by the trial Court.

Therefore, finding no merit in the revision petition, it is dismissed.

(AMOL RATTAN SINGH)
JUDGE

February 07, 2017
vcgarg

Whether reasoned/speaking: Yes
Whether reportable: Yes