

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

Crl. Revision No.273 of 2017

Date of Decision:06.02.2017

Harish Kumar @ Kali

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE AMOL RATTAN SINGH.

**Present: Mr.G.S.Bawa, Advocate,
for the petitioner.**

AMOL RATTAN SINGH, J.(Oral)

By this petition, the order of the learned trial Court, allowing an application filed by the prosecution under Section 311 Cr.P.C., has been challenged by the petitioner-accused. The impugned order dated 07.01.2017, though does not give any reasoning whatsoever with regard to as to why the investigating officer, i.e. ASI Ravi Kumar, PW-1, was being summoned for re-examination, however, a perusal of the application (Annexure P-4) filed by the Assistant Public Prosecutor, shows that it is for the reason that the order of the trial Court dated 22.11.2014 was corrected on an application moved by the prosecution, on 15.12.2014. The aforesaid two orders have been produced today in Court by the learned counsel. In the first order dated 22.11.2014, it has been directed that “remaining bulk now allegedly containing 100 grams intoxicated (sic) powder is resealed in my presence with mark impressions 'RK' and 'PKJMIC'. The relevant sample be sent to Chemical Examiner for the purpose of analysis and remaining entire case property including bulk of 100 grams intoxicated (sic)

powder, representative sample and allegedly 10 grams heroin be kept in judicial malkhana in accordance with rules”.

In the subsequent order dated 15.12.2014, it has been directed that the parcel allegedly containing 10 grams of heroin be also deposited in the office of the Chemical Examiner, Kharar.

Thus, the re-examination of PW-1, ASI Ravi Kumar, is obviously only for the purpose of deposing in terms of whether 10 grams of heroin was seized or not, which has been ordered to be deposited with the Chemical Examiner, which part was missed out by the trial Court in its order dated 22.11.2014.

Learned counsel submits that the report of the Chemical Examiner already having been received, re-calling of the said witness would be purposeless.

Whereas the contention may not be entirely illogical, however, it is also seen that in his testimony (Annexure P-2), ASI Ravi Kumar has specifically stated that the polythene bag alleged to have been seized contained two poly bags, one of which contained 10 grams of heroin and another contained 120 grams of intoxicant powder. Hence, in view of the fact that the trial Court has exercised its jurisdiction under Section 311 Cr.P.C., which is seen to be for a valid purpose, I do not see any prejudice that it would cause to the petitioner, if the witness is re-called, in view of the testimony already deposed by the said witness, as regards the 10 grams of heroin stated to have been recovered from him, as per the said witness' testimony.

Consequently, while dismissing this petition, the trial Court is, however, directed to ensure that the re-examination of the witness is

confined only to the contents of the orders dated 22.11.2014 and 15.12.2014, in respect of the 10 grams of heroin ordered to be sent for analysis to the Chemical Examiner vide the later order.

February 06, 2017
seema

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No