

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3686-2017 (O&M)

Date of decision: 09.10.2017

Raghubir Singh @ Mungra

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. PS Jammu, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through this revision petition, prayer has been made for setting aside the order dated 22.09.2017 of the learned Sessions Judge, Sirsa, allowing the application of the prosecution under Section 311 Cr.P.C.

2. In nutshell, PW-8 Dr. Sourabh Arora, Medical Officer, CHC, Dabwali, had medico-legally examined injured Rajesh, on 28.08.2016, but in the MLR (Annexure P-1) due to his clerical error he mentioned the date of examination as 28.07.2016. Resultantly, as PW-8 on the basis of MLR (Annexure P-1), he deposed that he had medico-legally examined the injured on 28.07.2016. On coming to know this irregularity or mistake, the prosecution moved an application under Section 311 Cr.P.C. to recall PW-8 Dr. Sourabh Arora, to clarify the date of examination of the injured-Rajesh and the same was allowed vide the impugned order dated 22.09.2017.

3. Learned counsel for the petitioner contends that an indefeasible right accrued to the petitioner/accused has been taken away by the trial Court by allowing the above application of the prosecution. Even

otherwise, the same amounts to fill up an lacuna.

4. Considering the overall facts and circumstances of the case, this Court finds that the instant revision petition is totally frivolous, baseless and is liable to be dismissed with heavy costs for the simple reason that due to clerical error, the date of medico-legal examination of injured-Rajesh was mentioned by PW-8 Dr. Sourabh Arora as 28.07.2016, though he was examined on 28.08.2016. Undisputedly, passing of the impugned order and allowing the application of the prosecution, does not at all amount to filling up of any lacuna, rather would facilitate the trial Court in effective adjudication of the case.

5. In view of the discussion made above, the instant revision petition is dismissed, but without imposing any cost, keeping in view the request of learned counsel for the revisionist-petitioner.

October 09, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No