

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

**Crl. Misc. No.M-14519 of 2018 (O&M)
Date of decision : 21.08.2018**

Naresh Kumar

.....Petitioner(s)

Versus

The State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

ANITA CHAUDHRY, J(ORAL)

The petitioner assails the order dated 26.03.2018, vide which the application filed by him for recalling the witness for further cross-examination had been dismissed.

I have heard the counsel for the petitioner.

An FIR had been registered against the petitioner in 2011 under Section 498-A, 406, 506 IPC. The trial had commenced and the statement of the complainant (wife) had been recorded on 13.05.2013. Thereafter, an application under Section 319 Cr.P.C. was filed, which was disposed of in July 2017. The accused moved an application (Annexure P-1) for recall of PW-2 seeking further cross-examination as he was unable to put the medical record to the witness. The petitioner also wanted to confront the complainant with a bank statement. It was claimed that these documents were necessary to be put to her for just decision of the case.

The submission of the petitioner was that the complainant had claimed that a cheque had been given at the time of marriage as dowry and

they have now laid hands on the documents, which would demolish the case set up by the complainant and therefore, they need to cross-examine the complainant further and confront her with the document as well as the medical record as the husband had been taking the wife to the hospital each time.

The statement made the complainant before the trial Court was placed on record. On perusal thereof it is found that the complainant had stated that she had given a cheque of Rs.50,000/- to the husband. The cheque and the medical records were with the accused. It is not a fact which has come to their notice subsequently. The application has been moved almost five years after the statement of the complainant had been recorded. The petitioner it appears wants to delay the trial. The petitioner cannot be allowed to fill up the lacuna. The accused were represented by lawyer who had effectively cross-examined the complainant. The witness cannot be recalled merely because some questions were left out. I find no infirmity in the order.

The petition is dismissed.

21.08.2018

sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No