

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

**CRM-M No.22195 of 2018 (O&M)
Date of Decision: 23.05.2018**

Vinod Kumar and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ashish Verma, Advocate for the petitioners.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for setting aside the impugned order dated 05.05.2018 (**Annexure P-5**), passed by the learned Additional Chief Judicial Magistrate, Fatehabad, vide which, the application under Section 311 of the Code of Criminal Procedure, moved by the petitioners, for recalling of complainant/PW 2-Savitri Devi has been dismissed.

It is contended by learned Counsel for the petitioners that on the same day, the application filed by the prosecution under Section 311 Cr.P.C. has been allowed whereas the application moved by the petitioners under Section 311 Cr.P.C. has been dismissed without any cogent reasons.

Heard learned Counsel for the petitioners and perused the paper-book.

On perusing the application dated 05.01.2018, moved by the present petitioners, it shows that nothing has been mentioned as to what is

the necessity of re-examination of complainant/PW 2-Savitri Devi. The ground taken in the said application for re-examination of Savitri Devi is that at the time of her examination, the FSL Report was not attached with the challan and the applicants/petitioners have right to re-examine Savitri Devi after receiving the FSL Report.

There is nothing mentioned in the application as to what questions have been left to be asked from the complainant/PW 2-Savitri Devi. Therefore, the argument seems to be not tenable in view of the fact that the FSL Report is per se admissible in view of Section 293 of the Code of Criminal Procedure.

Perusal of paragraph 7 of the impugned order dated 05.05.2018 (**Annexure P-5**) further reveals that the statements of accused have already been recorded under Section 313 Cr.P.C. and the case is at the stage of defence evidence. Thus, the said application has been filed just to delay the proceedings before the learned trial Court.

In view of above, this Court does not find any merit in the present petition and the same deserves to be dismissed.

Ordered accordingly.

Learned trial Court is requested to expedite the trial as early as possible.

May 23, 2018
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>