

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

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CRM-M No.22950 of 2018

Date of Decision: May 29th, 2018

Sarwan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for setting aside the order dated 11.05.2018 passed by the Special Court, Ferozepur, whereby an application under Section 311 Cr.P.C. for recalling PW-1 Ravi Gupta, the complainant, for further cross-examination, has been declined.

It is the contention of learned counsel for the petitioner that on the change of counsel, it came to light that on certain important aspects which would be relevant and going to the core of the case, there has been no cross-examination of the said witness, because of which an application for recall of the said witness was moved. He contends that the Court has proceeded on a wrong assumption by pointing out that the questions which are sought to be put to the petitioner have not been disclosed in the application and, therefore, the impugned order cannot sustain.

Having considered the submissions made by the counsel for the petitioner, even ignoring the aspect and the observations of the trial Court with regard to the non-disclosure of the important questions which have to be put to the witness, suffice it to say that mere change of counsel cannot be a ground for recalling a witness for cross-examination. There has to be material on record to substantiate the necessity for recall of a witness for

cross-examination, which in the considered view of this Court, is not available in the application which have been moved. The order as passed by the trial Court, therefore, cannot be to the extent of rejecting the application on the ground of change of counsel, said to be without any basis.

The present petition, therefore, stands dismissed.

May 29th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No