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

**CRM-M No.34469 of 2017
Date of Decision: 27.02.2018**

Bhagwan Dass

..... Petitioner

Versus

State of Punjab and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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

Mr. Luvinder Sofat, A.A.G., Punjab,
for respondent No.1.

Mr. Salil Dev Singh Bali, Advocate,
for respondents No. 2 to 7.

SUDIP AHLUWALIA, J. (ORAL)

This petition is directed against the order dated, 27.02.2017, passed by the Ld. Judicial Magistrate Ist Class, Jalalabad (West), whereby an application under Section 311 of the Code of Criminal Procedure filed on behalf of the prosecution, in which it was prayed to recall PW-9 PHG Harjinder Singh for the purpose of getting exhibit certain documents which were left unexhibited due to oversight/negligence on the part of the said witness himself inasmuch as the concerned document (site map of the place of occurrence), was not tendered although it was kept at the backside of the

final Report under Section 173 of the Code of Criminal Procedure, and the said witness was himself not the Investigating Officer. The concerned Investigating Officer, namely Gurdev Singh, had expired in the meantime and so this omission in getting the site map exhibited, even though it was a part of the challan papers.

2. *Per se* the prayer of the prosecution side appears to have been innocuous and reasonable, and the mere fact that prosecution evidence had already been closed was not a valid ground to reject the application for leading into evidence a document which in any case was a part of the challan papers, and more particularly when the defence evidence had yet to commence.

3. In the given facts and circumstances, therefore, the present petition is allowed after quashing the impugned order and the Ld. Trial Court is directed to grant one opportunity to the prosecution side to recall and re-examine PW-9 for the limited purpose of tendering the concerned documents into evidence.

4. Disposed off.

27.02.2018

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No