

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

CRM-M-5336-2018

Date of decision:-8.2.2018

Balchand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Ajay Ghangas, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of filing the present petition under Section 482 Cr.P.C., petitioner - Balchand, who is an accused in FIR No.52 dated 14.5.2014 for the offence under Section 506 IPC, registered with Police Station Faridabad, District GRP Ambala Cantt., seeks setting aside of the impugned order dated 11.12.2017 passed by Chief Judicial Magistrate, Palwal dismissing application under Section 311 Cr.P.C.

Briefly stated, the facts of the case are that petitioner has been facing trial before Chief Judicial Magistrate, Palwal; that on 11.4.2017 statements of ASI Om Parkash and Lalit Kumar, Duty Officer were recorded; that they were cross-examined on behalf of the accused and thereafter the prosecution evidence was closed and statement of

accused under Section 313 Cr.P.C. was recorded on the same day.

The grouse of the petitioner-accused is that his main counsel Sh.Vinod Yadav, Advocate was not available to conduct the cross-examination of those prosecution witnesses being busy in election at Delhi and the proxy counsel was not fully conversant with the facts of the case especially with regard to false and malicious prosecution in which the Investigating Officer is involved and he being in league with the complainant to ensure victimization of the accused. He had moved an application under Section 311 Cr.P.C. for recalling of both those prosecution witnesses but the same was declined by the trial Court vide the impugned order.

Feeling aggrieved by the impugned order, the petitioner – accused has knocked at the door of this Court.

I have heard learned counsel for the petitioner besides going through the record and I do not find any fault with the impugned order, which as a matter of fact is well reasoned one, based upon proper appraisal of evidence and in consonance with the settled legal position. There is nothing to show that the counsel, who had conducted cross-examination of prosecution witnesses in absence of Sh.Vinod Yadav, Advocate was ill-equipped to handle the case or was a novice. There is nothing on record to show that any request was made on behalf of accused for deferring the cross-examination or that the same was declined. The reason given in the application for recalling of the prosecution witnesses is least convincing and the application was rightly rejected by the trial Court.

Thus, finding no illegality or infirmity in the impugned

order, which might have called for interference exercising powers under Section 482 Cr.P.C., the petition stands dismissed.

8.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No