

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

Crl. Misc. M-8301 of 2018 (O&M)
Date of Decision: March 12, 2018

Jabbar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Johan Kumar, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for quashing of order dated 15.09.2017 passed by the Additional Sessions Judge, Palwal, whereby the application of the petitioner filed under Section 311 Cr.P.C. for re-examination of PW1 Prosecutrix in FIR No.50 dated 14.02.2016, under Sections 363, 366-A, 120-B, 376 of Indian Penal Code, registered at Police Station Hathin, District Palwal was dismissed.

In brief, the aforesaid FIR was lodged on 14.02.2016 by Ramjan son of Yamla, on the allegations that his niece, aged about 17-18 years, had gone somewhere without informing at home on 10.02.2016. It was apprehended by the complainant that somebody might have confined his niece somewhere. During the course of trial, the prosecutrix stepped into the witness box as PW1 on 27.02.2017 and her statement was recorded

on the same date. Thereafter, an application under Section 311 Cr.P.C. came to be filed by the petitioner-accused for recalling the PW1-prosecutrix, on the ground that on 27.01.2017 when the prosecutrix was examined, learned counsel for the petitioner-accused (before the trial court) was not feeling well. It was alleged that the request of learned counsel for the petitioner-accused for adjournment was denied and despite suffering from fever, he cross-examined the victim, but could not ask the necessary questions, which are essential for the just decision of the case. The proposed questions have been mentioned in para 2 of the application from (i) to (xxiii) by the petitioner-accused. The trial court, while considering the rival contentions of both the sides, dismissed the application by the impugned order dated 15.09.2017, which has been challenged by the petitioner-accused in the instant petition.

Learned counsel for the petitioner argues that the trial court has wrongly declined the application under Section 311 Cr.P.C, because when the statement of the prosecutrix was recorded on 27.02.2017, learned counsel for the petitioner-accused (before the trial court) was unwell, as such, he could not properly put the relevant questions to the prosecutrix.

I have heard learned counsel for the petitioner.

While dismissing the application of the petitioner-accused under Section 311 Cr.P.C. by the impugned order dated 15.09.2017, the trial court has observed as under;

“I have duly considered the rival submissions and I do not have any hesitation in endorsing the view adopted by learned Public Prosecutor. Learned Counsel for the applicant did not file any application for adjournment

at the time of recording statement of the victim. Record shows that as and when adjournment is claimed on behalf of the applicant, the same was allowed by this court. Above all, most of the proposed questions are not only irrelevant, but also the debauch in nature. Such type of applications for the purpose of embarrassment of the victim cannot be allowed and the application is beyond the scope of Section 311 Cr.P.C. Resultantly, the application is dismissed.”

This court has thoroughly gone through the application moved before the trial court under Section 311 Cr.P.C. (Annexure P-5) as well as testimony of the prosecutrix recorded by the trial court on 27.02.2017 (Annexure P-3). A perusal of the application moved under Section 311 Cr.P.C. goes on to show that the proposed questions are not only irrelevant and defamatory, but also derogatory and scandalous in nature. The questions proposed to be asked are couched in a manner to embarrass the prosecutrix and nothing else, which cannot be permitted. Statement of the prosecutrix recorded by the trial court on 27.02.2017 reveals that she was cross-examined at length by learned counsel for the petitioner-accused. Under these circumstances, this court does not find any illegality in the impugned order so passed by the trial court.

In view of the above, no ground is made out to interfere with the impugned order. The petition in hand stands dismissed, being devoid of any merits.

March 12, 2018

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No