

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

**Crl. Revision No. 1115 of 2018 (O&M)
Date of decision : 24.07.2018**

Rahul

..... Petitioners

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Inderjeet Singh Chawla, Advocate
for the petitioner.

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ANITA CHAUDHRY, J

CRM-23798-2018

For the reasons set out in the application, same is allowed as prayed for and accompanying outer cover of C.D. and photographs are allowed to be taken on record.

MAIN CASE

This is a petition by the accused assailing the order passed by Additional Sessions Judge, Jalandhar who dismissed the application filed by the petitioner seeking recall of PW-1 and PW-2.

I have heard the counsel for the petitioner.

The counsel for the petitioner contends that the statement of the witnesses had been recorded in February 2017 but due to change in circumstances it was necessary to recall the witnesses. It was urged that the girl's family had sent the C.D. which was received on 09.01.2018, which contains pictures of the victim and the accused and the victim has to be confronted with those photographs and there were some questions which

could not be put and need to be put to the victim. It was contended that the earlier counsel had failed to put important questions to the witnesses. The counsel refers to the C.D. and the photographs.

The counsel was asked to refer to the portion of the statement of the victim where any question or suggestion had been put to the victim that they were in a relationship or there had some photographs of them together. The counsel has been unable to point it out. A new defence is sought to be raised after the examination of the victim.

The authenticity of the C.D. has not been tested. Without any certification, the authenticity of the C.D. cannot be put to the witness on recall. The petitioner cannot be allowed to fill up the lacuna only because the earlier counsel had failed to put some question. The accused would have a right to lead defence. They can lead evidence when it is their turn to lead evidence.

I find no infirmity in the order. The revision is dismissed in limine.

July 24, 2018

sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No