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

**CRR-3346-2018 (O&M)
Date of Decision: 05.10.2018**

Gauravdevdhar @ Gauri**...Petitioner****Versus****State of Haryana****....Respondent****CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. P.S.Hundal, Senior Advocate with
Mr. Jagtar Singh, Advocate
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision challenge has been laid to the order dated 06.09.2018 of the trial Court, whereby the application of the father of the deceased Hamit Lamba under Section 311 Cr. P.C. for examining himself as prosecution witness and to produce mobile phone of his deceased son wherefrom a CD prepared from the conversation recorded therein, has been allowed.

In nutshell, the petitioner and his three accomplice were booked under Sections 302, 321, 34 of the IPC in case FIR No. 259 dated 04.10.2017 registered at Police Station Parao, District Ambala. During trial, one of the eye-witnesses, namely Abhishek, as PW-1 turned hostile, whereas another eye witness, namely Vipin died during investigation.

Therefore, in order to prove case of the prosecution, father of deceased-Hamit Lamba, being affected person, moved application for

examining himself as a witness to produce the recording found in the mobile phone of his deceased son along with his mobile phone. The Trial Court, after contest by the petitioner, has allowed the said application under Section 311 Cr. P.C.

Learned counsel for the petitioner contends that production of any CD and mobile phone of the deceased would prejudice the right of the petitioner, inasmuch as the said CD and mobile phone were never handed over to the police during investigation. Therefore, authenticity of the alleged conversation, if any, in the mobile phone of the deceased is doubtful.

Having considered the submissions made by the learned counsel for the petitioner, this Court finds this revision completely devoid of any merit for the reasons that the production of CD to prove recorded conversation of the last seen witness in the mobile phone of the deceased is very much relevant in view of the fact that one of the eye witnesses, namely Abhishek, has turned hostile and another witness, namely Vipin, died during investigation. No right of the petitioner would be prejudiced, in case, the father of the deceased has been permitted by trial Court to be examined himself as a witness together with production of CD and mobile of the deceased inasmuch as the petitioner shall have the right to rebut the same in his defence.

In view of the above discussion, this petition is dismissed.

5th October, 2018

shabha

**[RAMENDRA JAIN]
JUDGE**

*Whether speaking/reasoned
Whether Reportable*

*Yes/No
Yes/No*