

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

CRR-3442-2018

Date of Decision: 11.10.2018

Mubeen

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Mazlish Khan, Advocate
for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has sought for the following relief:

“It is therefore respectfully prayed that the present revision petition may kindly be accepted and the impugned order dated 27.9.2018 passed by the learned Sessions Judge, Mewat may kindly be set aside, in the interest of justice.”

2. Perusal of the order dated 27.9.2018 passed by the Sessions Judge, Mewat, petitioner's contention relating to recalling PW-2 Niyaju and PW-3 Anish has been taken into consideration with reference to examination and cross-examination of the aforesaid persons on 31.8.2018 and they have been cross examined at length.

3. Today learned counsel for the petitioner submitted that different counsel was appeared for the purpose of examination and cross examination of PW-2 Niyaju and PW-3 Anish on 31.8.2018. Therefore, relevant questions were not posed. Thus, it is necessary to recall the evidence of PW-2 Niyaju and PW-3 Anish in the interest of justice.

4. Heard learned counsel for the petitioner.

5. It is undisputed that to examination and cross examination of PW-2 Niyaju and PW-3 Anish were completed on 31.8.2018. If the petitioner's contention is that regular counsel was not appeared on the date

of examination and cross-examination of PW-2 Niyaju and PW-3 Anish, relevant questions were not posed, if it is so, petitioner or his counsel could have sought for time in respect of appearance of the regular counsel for the purpose of examination and cross-examination. Therefore, on the score that petitioner regular counsel was not present on the date of examination and cross examination cannot be a ground to seek for recalling of witnesses namely PW-2 Niyaju and PW-3 Anish. Court below has cited the decision of the Supreme Court in the case of *Mishrilal and others v. State of M.P. And others*; 2005 Scc (Crl) 1712 to the extent under what circumstances witnesses may be recalled for the purpose of their further examination. Having regard to the principle laid down by the Supreme Court, petitioner has not made out a case so as to recall the witnesses namely PW-2 Niyaju and PW-3 Anish.

6. Accordingly, petition stands dismissed.

11.10.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**