

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

**Criminal Misc. No.M-30546 of 2018
Date of Decision: 19.03.2019**

Vikas

...Petitioner(s)

Versus

State of Haryana & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Karan Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Rahul Singla, Advocate for respondent no.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 CrPC is for quashing of order dated 05.06.2018 passed by Additional Sessions Judge, Palwal in FIR NO.72 dated 28.06.2017 under Sections 376, 363, 366, 354A IPC, Section 6 POCSO Act and Sections 3/33/89 SC/ST Act registered at P.S. Women Palwal, whereby the application filed by the petitioner under Section 311 CrPC to re-cross-examine the complainant was dismissed.

Learned counsel for the petitioner has argued that the petitioner and respondent no.2-prosecutrix have solemnised their marriage. They are staying together as husband and wife. After registration of the aforesaid FIR, respondent no.2 had suffered a statement under Section 164 CrPC, wherein, she has specifically stated that no one has done anything to her and she does not know Vikas and Kamal and none of them have done any bad act with her. The FIR in question was registered against the accused under some fear. He has further argued that statement of the

prosecutrix-respondent no.2 under Section 164 CrPC was not confronted to her. Therefore, her re-cross-examination is necessary for the just decision of the case.

Learned State counsel, on instructions from ASI Surinder Singh, has argued that the petitioner had availed ample opportunities to cross-examine the prosecutrix and the application under Section 311 CrPC, for re-cross-examination of the prosecutrix, has been filed at a much belated stage when all the PWs have been examined to fill up the locuna in the case.

Having heard learned counsel for the parties and considering the fact that the petitioner and respondent no.2-prosecutrix have solemnized their marriage and are staying together as husband and the limited prayer of the petitioner is that the defence wants to confront the complainant with her statement recorded under Section 164 CrPC, the prayer made in this petition carries merit. Accordingly, the impugned order dated 05.06.2018, whereby the application of the petitioner filed under Section 311 CrPC has been dismissed, is hereby set aside. One more opportunity is granted to the petitioner for further re-cross-examination of the prosecutrix including confronting her to her previous statement recorded under Section 164 CrPC.

Accordingly, the present petition is disposed of.

March 19, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No