

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-35825 of 2018

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Date of decision:04.04.2019

Pritpal Singh

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sumeet Pal Singh, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. to set aside the order dated 18.5.2018 passed by the Presiding Member, Juvenile Justice Board, Ludhiana (hereinafter referred to as 'the JJB') in case FIR No.62 dated 16.3.2015 (Annexure-P.1) registered for the offences under Sections 324, 326, 506 and 34 IPC, whereby the application filed under Section 311 Cr.P.C. seeking permission to cross-examination of PW-2 Upkar Singh was dismissed and order dated 7.11.2017 vide which the opportunity to cross-examine PW-2 was treated as Nil.

Notice of motion has been issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab

has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that in the trial in FIR No.62 dated 16.3.2015 registered for the offences under Sections 324, 326, 506 and 34 IPC registered at Police Station Samrala, Police District Khanna, District. Ludhiana, an application was filed by the present petitioner for seeking permission to cross-examine PW-2 Upkar Singh. This application was dismissed by the trial Court. Aggrieved from this order, the present petition has been filed.

From the record, I find that statement of PW-2 Upkar Singh has been recorded on 7.11.2017 by the Principal Magistrate of JJB, Ludhiana and as per Annexure-P.3, no cross-examination was conducted and it has been written that opportunity given Nil. A perusal of the statement of Upkar Singh, who is an injured eye witness to the case, shows that if the petitioner is not allowed to cross-examine PW-2 then this statement will remain as unchallenged and there is every chance of holding the present petitioner guilty statement being un-rebutted. Even if it is taken that his counsel has not examined this PW-2, even then for the mistake of counsel, the party should not suffer. It is settled law that the Court should not go into the technicalities of law and do substantial justice. Cross-examination of PW-2 is very much necessary in the present case to do substantial justice.

Therefore, in the interest of justice, this petition is allowed and the application filed under Section 311 Cr.P.C. is allowed. One effective

opportunity only is granted to the petitioner to cross-examine PW-12.

April 04, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No