

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-19324-2019

Date of Decision: 26.11.2019

Meena

.....Petitioner

Vs.

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Pradeep Virk, Advocate,  
for the petitioner.

Mr. Surender Singh, A.A.G., Haryana.

Mr. Deepak Vashishth, Advocate,  
for the complainant.

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**AMOL RATTAN SINGH, J. (ORAL)**

By this petition, the petitioner seeks quashing of the order dated 01.03.2019, passed by the learned trial Court (Additional Sessions Judge, Karnal), by which an application filed by a co-accused of the petitioner (one Jyoti), under Section 311 of the Cr.P.C., seeking the summoning of a prosecution witness, i.e. Dr. Deepak Rohila, for further cross-examination, has been dismissed.

In that application (copy Annexure P-2), it was contended that Dr. Deepak Rohilla could not be cross-examined as regards the MLR of another co-accused, i.e. Sanjay, as he ((Dr. Rohilla) did not have that MLR with him.

Learned counsel for the petitioner submits that however, when the MLR in respect of the aforesaid Sanjay was seen from the medical record, it was found that it was Dr. Deepak Rohilla who had also examined accused Sanjay (other than the deceased), which fact was not earlier known to the petitioner and

her co-accused.

The learned trial Court had dismissed the application, vide the impugned order, on the ground that no such plea to the effect that Dr. Deepak Rohilla had prepared the MLR of accused Sanjay was taken by the defence counsel at the time when Dr. Rohilla was examined, and therefore it did not lie in the mouth of the defence to recall the doctor on the ground that “he is in possession of MLR”, which was intended to be proved by so examining him.

Notice of motion having been issued, learned State counsel and counsel for the complainant virtually reiterate what has been stated in the order of the learned trial Court, with learned counsel for the complainant submitting that in fact the application is only a delaying tactic.

Having considered the matter, seeing that the petitioner and her co-accused are charged with an offence punishable under Section 302 of the IPC (along with other offences), in my opinion, it would cause no prejudice to simply recall the doctor once for cross-examination on that limited issue, i.e. as to whether he had also examined the aforementioned Sanjay and had issued/signed the MLR qua any injuries on that person.

However, as also stated by learned counsel for the complainant, that if this Court is inclined to allow the petition, it should be with the stipulation that the entire cross-examination of the doctor would be completed within one day itself, that contention is found to be absolutely reasonable; and consequently, this petition is allowed, with the impugned order set aside and the application filed by the co-accused of the petitioner under Section 311 of the Cr.P.C., on 28.02.2019, allowed.

The trial Court is directed to re-summon Dr. Deepak Rohilla either by way of video conferencing or by his actual physical presence, to enable the

petitioner/her co-accused to cross-examine him, only qua the issue of any MLR of accused Sanjay.

Naturally, all such cross-examination shall be concluded on the same date itself.

November 26, 2019  
nitin/dinesh

(AMOL RATTAN SINGH)  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes  
No.