

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

CRM-M-18586-2019

Date of decision-06.05.2019

LC Menka

....Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Manish Soni, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Menka has filed this petition challenging the order dated 12.10.2018 (Annexure P-6) passed by Judicial Magistrate First Class, Gurugram, whereby application under Section 311 Cr.P.C filed by the petitioner/complainant was dismissed.

Learned counsel for the petitioner contends that application under Section 311 Cr.P.C was filed by the petitioner (complainant) for re-examination of prosecution witness PW-4- Dr.Deepak Mathur. The ground raised in the petition is that in view of evidence of nature and evidence PW-10-Dr.Deepak Taneja, there is some ambiguity as far as evidence of Dr.Deepak Taneja is concerned. Learned counsel contends that the said witness needs to be recalled to clarify his stand and in case the permission is granted, no prejudice would be caused to the accused.

After hearing learned counsel for the petitioner, this Court is of the opinion that the ground raised by the petitioner is not tenable as both the witnesses are prosecution witnesses and it would amount to filling up the

lacunae and in case the complainant is allowed to recall the said witness, the possibility of introduction of improvement cannot be ruled out and in that eventuality, accused would be certainly prejudiced.

It is a settled law that discretionary power under Section 311 Cr.P.C is to be exercised sparingly and that too in a suitable case. The trial Court has passed a well reasoned order and this Court does not find any reason to interfere.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

06.05.2019

vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No