

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

CRM-M-20482-2019 (O&M)

Date of decision-06.05.2019

Jitender @ Jitu

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mohd. Arhsad, Advocate for the petitioner.

MANOJ BAJAJ, J.

CRM-14803-2019

Application is allowed as prayed for.

Main case

Petitioner-Jitender @ Jitu has filed this petition challenging the order dated 30.03.2019 (Annexure P-3) passed by learned Sessions Judge, Faridabad whereby application under Section 311 Cr.P.C filed by the petitioner was dismissed.

The petitioner is an accused in case FIR No.476 dated 15.09.2016 registered under Section 379-B IPC and Section 25 of Arms Act at Police Station Faridabad.

Learned counsel for the petitioner contends that his application filed under Section 311 Cr.P.C for recalling prosecution witness PW-13, namely, SI Rajender (Investigating Officer) has been dismissed by the trial Court erroneously. According to him, certain vital questions were left to be

put to the said witness and therefore, in case the said witness is recalled for cross-examination, no prejudice would be caused to the complainant. It is further pointed out that the complainant-PW-7 (Tarun Satija) had turned hostile and did not support the prosecution case. It is a specific stand of the petitioner that the complainant had entered into a compromise who is not willing to pursue his case against the accused. The petitioner has failed to make a convincing ground for recalling PW-13 (Investigating Officer) whose testimony was recorded and also cross-examination was concluded on 02.08.2018.

It is evident from the perusal of the said statement of PW-13 that he was put to lengthy cross-examination. The application moved under Section 311 Cr.P.C does not make out a ground for recalling, particularly when the vital questions which were to be put to the witness are not mentioned in the application.

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. In view of the above, no ground is made out for interference with the impugned order dated 30.03.2019 passed by the trial Court.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

06.05.2019

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Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No