

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

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CRR-3266-2018 (O & M)
Date of Decision:05.02.2019

Pooja Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashok Kaushik, Advocate
for the petitioner.

Mr. Nischal Mann, DAG, Haryana.

MANOJ BAJAJ, J.

Through this revision petition the order dated 13.07.2018 passed by the learned trial Court has been challenged, whereby application under Section 311 Cr.P.C. filed by the complainant (petitioner) has been dismissed. The order arises from the proceedings in case FIR No.338 dated 30.05.2017 under Sections 302, 201 and 34 of the Indian Penal Code ('IPC' – for short), registered at Police Station Suraj Kund, Faridabad.

After commencement of trial, the prosecution examined its witnesses including PW-3, PW-4, PW-14 and PW-15, who were offered for cross-examination as well. The prosecution had already examined 18 witnesses and at that stage the application was filed by the complainant to summon witnesses PW-3, PW-4, PW-14 and PW-15 for re-examination and fresh cross-examination on the ground that the previous counsel did not

conduct the proper cross-examination of these witnesses. The learned trial Court vide its order dated 13.07.2018 dismissed the application with the observation that the ground raised in the application is not justified for recalling the witnesses for re-examination and fresh cross-examination.

No doubt the power contemplated under Section 311 Cr.P.C empowers the Court to summon a witness at any stage of any inquiry, trial or proceedings either as an additional witness or for re-examination of a witness. This power is aimed to facilitate the Court to find out the truth and to reach at a just conclusion. At the same time, before resorting to the said provision, there must exist a reasonable ground for exercising this extraordinary power either *suo moto* or upon an application given by any of the parties. The application must offer sufficient explanation and reasons for exercise of power under Section 311 Cr.P.C.

In the present set of facts and circumstances of the case, the witnesses sought to be recalled have already appeared before the Court and their cross-examination also stood concluded. Merely, according to the petitioner, they were not cross-examined properly would not be a valid ground for recalling such witnesses again for cross-examination. Therefore, the Court has rightly declined the application filed by the petitioner under Section 311 Cr.P.C.

Even otherwise, the order refusing to summon the witnesses in exercise of power under Section 311 Cr.P.C. is an interlocutory order.

In view of the above, the revision petition fails and the same is dismissed.

05.02.2019

(MANOJ BAJAJ)
JUDGE