

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

**Criminal Revision No. 2038 of 2019 (O&M)**  
**Date of decision : November 29, 2019**

Manohar Lal

....Petitioner

versus

State of Haryana and another

....Respondents

**Coram: Hon'ble Mr. Justice Fateh Deep Singh**

Present : Mr. Tarun Singla, Advocate, for the petitioner

Mr. Amrik Narwal, DAG Haryana for the State/  
respondent no. 1

Mr. Onkar Rai, Advocate, for respondent no.2

**Fateh Deep Singh, J. (Oral)**

In a case got registered by way of FIR No. 440 dated 14.12.2016 under Sections 304-B,34,498-A IPC pertaining to Police Station Sadar Tohana pending before the court of learned Additional Sessions Judge, Fatehabad, the present petitioner moved an application 311 Cr.P.C. for recalling PW7 Sham Lal and PW8 Bhim Singh. The learned trial court through impugned orders dated

6.3.2019 dismissed the application. The same is subject matter of challenge in this revision.

Heard counsel for the parties and perused the records.

Section 311 Cr.P.C. though empowers a court to summon any person as a witness at any stage of inquiry or trial/proceedings, however, the same is subject to judicious exercise of powers where the court feels that evidence of such a witness is essential for the judicious adjudication.

Learned counsel for the petitioner submits that both these witnesses were essential to bring about and establish that compromise has come about and thus was necessary. The same is sought to be controverted by the learned State counsel assisted by counsel for the complainant/respondent no. 2 on the grounds that provisions of Section 311 Cr.P.C. cannot be resorted to fill in the lacuna in the case of the party and is only to meet the ends of justice.

Appreciating the submissions, a plain reading of the application moved by the present petitioner before the trial court does not spell out the reasons which have necessitated for recalling of these witnesses. Rather as is well elicited, both these witnesses are witnesses in a compromise agreement placed on the record as

Annexure P/2 and more-so earlier the accused side had filed CRM-M-31947-2010, a petition for quashment of the present FIR in question which was declined by this Court vide orders dated 8.7.2011 Annexure P/5. Thus from this all it demonstrates that it is purely with an oblique motive to undo the effects of the prosecution case, the present application has come about. It is well settled proposition of law that resort to Section 311 Cr.P.C. cannot be had to merely to meet such an end. Learned counsel for the petitioner could not convince how the impugned order suffers from any patent illegality or perversity necessitating intervention by this Court. Having no merit, the present petition stands dismissed.

**November 29, 2019****'tiwana'****( Fateh Deep Singh )  
Judge***Whether speaking/reasoned ?**Yes/No**Whether Reportable ?**Yes/No*