

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-46179 of 2019

Date of Decision: 30.10.2019

Bhupinder Singh

.....Petitioner

Versus

Hazara Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Anant Kataria, Advocate
for the petitioner.

HARNARESH SINGH GILL, J

The petitioner has filed this petition under Section 482 Cr.P.C. challenging the order dated 17.9.2019 (Annexure P-5) whereby the application filed by him under Section 311 Cr.P.C. for recalling of complainant Hazara Singh for further cross-examination, was dismissed.

Para 4 of the impugned order dated 17.9.2019 reads as under:-

“The present case has reached at the final stage of defence evidence. The accused has cross-examined the complainant at length. The questions with regard to the agreement to sell has also been put to the complainant in his cross-examination. The plea raised by the accused that the previous counsel has not put the entire questions is not acceptable. The conduct of the accused shows that he want to delay the present case by using all the delaying tactics. The present application does not seem to be substantiated by the cogent reason. As such the present application stands dismissed.”

It is settled law that if the previous counsel has not put the

entire questions to the witness, then another opportunity cannot be granted by engaging another counsel.

Learned counsel for the petitioner has relied upon a judgment of Delhi High Court in the case of ***Anurag Sood versus State (NCT of Delhi) 2017(1) JCC 525***. In the said case, question regarding the nature of the weapon used in the offence was to be put to the witness. It was, thus, held that unless the said witness was not cross-examined, his testimony could not form part of evidence. Hence, the Court allowed the request for recalling the witness for further cross-examination. Learned counsel has also relied upon ***Kesar Singh versus Jagdish Chander 2018(4) R.C.R. (Criminal) 981***. In the said case, the petitioner was granted opportunity to further cross-examine the complainant (CW-1) and another witness Bhupinder Singh (CW-2) for the reasons that the complainant had repeatedly introduced new witnesses.

In the present case, the application under Section 311 Cr.P.C. had been moved after the statement of the accused was recorded under Section 313 Cr.P.C. and the defence had taken number of opportunities to lead the evidence.

In view of the above, I do not find any reason to interfere with the order passed by the Court below dated 17.9.2019.

The petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

October 30, 2019
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No