

S.No.282

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

CRM-M-46815 of 2019 (O&M)

Date of Decision:19.11.2019

BimlaPetitioner

Vs.

State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Rajesh Arora, Advocate for the petitioner.

Mr. M.D. Sharma, AAG, Haryana.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 482 of Cr.P.C for setting aside the order dated 15.10.2019 passed by learned Sessions Judge, Gurugram, in a case No.4/2019 in FIR No.145 dated 25.03.2018 registered under Section 379-A IPC at Police Station Sector 5, Gurugram, whereby application dated 11.10.2019 under Section 311 for recalling of PW4, SI Kiran has been dismissed.

It is contended by counsel for the petitioner that the application moved by the petitioner/ accused for recalling PW4 – SI Kiran; has been illegally dismissed by the Court below. It is further contended by counsel for the petitioner that the documents supplied in the challan itself show that on the documents mentioned in the application, there are signatures by one other person and, thereafter, by putting a fluid thereupon, another signature in the name of PW4- SI Kiran has been put. It is also contended by the counsel that earlier the question qua this cutting could not be put to this witness. Now the petitioner want to put the specific question qua the putting of fluid on one signature and only then the signature of PW4 SI Kiran being put on the documents.

On the other hand, learned State Counsel, being instructed by SI Dev Charan, submits that the trial Court has rightly rejected the application filed by the petitioner. The present application is nothing but an attempt by the petitioner to delay the proceedings. Otherwise, all the relevant questions had already been put by the petitioner to the said witness. It is further contended that the question sought to be now put to the said witness, is not even necessary for just decision of the case. The trial Court has already observed that whatever inconsistency in the document is there, that would be assessed by the Court at the time of final decision. Hence, the dismissal of the petition is prayed for.

Having heard learned counsel for the parties and having perused the file, this Court does not find any illegality or material irregularity with the order passed by the Court below. All the relevant questions have already been put to the said witness. The said witness had even gone to the extent of getting herself declared hostile.

However, since the petitioner is an accused of an offence, for which she can even suffer sentence of imprisonment, therefore, lest she should have any perception, though totally misconceived, that she is not being granted proper opportunity to defend herself, it would not be unjustified if the petitioner is granted one more opportunity to cross-examine the said witness, however, by limiting the said cross-examination, only to the aspect of the alleged discrepancy qua signatures.

Accordingly, the present petition is disposed of with a direction to recall the said witness and to grant one effective opportunity to the petitioner to put the said questions in cross-examination to the said witness.

However, since the said witness already stand cross-examined, therefore, the fresh questions, if any, would be restricted to the alleged inconsistency qua signatures; on the documents mentioned in the application.

One more fact has intervened in-between. The Department is stated to have issued a charge-sheet to the said witness, for her being deviating from the version of the prosecution. The said proceedings have been initiated on the basis of an order passed by this Court during pendency of the present petition. Hence, it is clarified that the petitioner would not be entitled to put any question to the said witness concerning the inquiry initiated by the department; or any reason, cause or effect for the said inquiry.

November 19, 2019

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Whether Speaking/reasoned

Whether Reportable

(RAJBIR SEHRAWAT)

JUDGE

Yes/No

Yes/No