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

**C.R.M-M No.57233 of 2018 (O&M)
Date of Decision : 14.02.2019**

Rajinder Singh @ Lovely

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. N.S.Sidhu, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr. Vaneet Kumar Sharma, Advocate
for the private respondents.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 06.10.2018 passed by the Court of Additional Sessions Judge, Ludhiana whereby the application filed under Section 311 Cr.P.C. for recalling of the prosecution witnesses for proving the MLR has been declined in a case FIR No.93 dated 14.05.2010 registered under Sections 307/452/148/149/427 IPC at Police Station Division No.6, Industrial Area, Ludhiana.

Counsel for the petitioner-injured has argued that after getting injured the victims had been removed to the Christian Medical College,

the case had come up for evidence it transpired that the doctors who had conducted the medical had left the job and had gone abroad. At the time when the medical was being conducted two doctors namely Dr.A.K.Saran and Dr.Vijay Obed were shown to be incharge of the unit which had conducted the medical. It was in these circumstances, that the instant application had been moved under Section 311 Cr.P.C. to examine those doctors so that they may be able to testify about the injuries. He has further argued that the reason which appears in the impugned order is ex-facie incorrect because it has been mentioned in the impugned order that there is no document on the record to show that these persons were present. However, the MLR clearly shows the presence of these doctors.

Counsel for the private respondents has argued that the evidence of injuries can only be given by the doctors who had actually conducted the medical.

In my opinion, this point can well be agitated in the cross-examination but in the circumstances of the case where the doctors who conducted the medical can not be summoned since they have resigned and gone abroad, an opportunity can not be denied to the petitioner-injured to prove the medical status of the victim. I, however, also cannot lose sight of the fact that the trial started in the year 2011 and it is now 8 long years.

Learned Deputy Advocate General and counsel for the private respondents have undertaken that they would examine these two witnesses if two effective opportunities are granted to them.

With this specific understanding the present petition is allowed.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

14.02.2019
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No