

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

Criminal Misc. No.M-51784 of 2019(O&M)

Date of Decision: December 09, 2019

Shubham @ Subham

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Deepak Singh Saini, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

Shubham @ Subham – petitioner has filed this petition under Section 482 for quashing the order dated 09.08.2019 of the Ld. Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby, his application for recalling PW6 Ved Parkash for further cross-examination has been dismissed and also quashing the order dated 19.11.2019 of the Ld. Additional Sessions Judge, whereby, the revision of the petitioner against the order dated 09.08.2019 was dismissed.

FIR No.44 dated 12.03.2015 u/s 279, 337, 338, 304-A IPC, Police Station Chhapar was registered against the petitioner. The FIR was registered on the statement of Ved Parkash, wherein, it was alleged that the petitioner was responsible for the accident, in which Karam Chand s/o Bhangi Ram died and the complainant received injuries. PW6 Ved Parkash

was examined on 06.07.2018. The accident is alleged to have taken place on

11.03.2015. In his statement Ex.PW6/A which was recorded by the police on 12.03.2015 at about 5.15 pm, Ved Parkash had stated that “*later on he came to know the name of the person who caused the accident as Shubham s/o Virender Kumar r/o Village Topra*”. In his deposition before the Court as PW6, Ved Parkash stated that the petitioner Shubham was known to him prior to the accident.

The petitioner moved application under Section 311 CrPC for recalling PW6 Ved Parkash for further cross-examination. It was stated that in view of the statement of PW6 before the police that he came to know the name of the person causing the accident later and his deposition in court that the accused Shubham was known to him prior to the accident, it was necessary to cross-examine PW6 on the discrepancy in his statement given to the police and his deposition before the Court to elicit the truth. It was argued that inadvertently the question regarding the identity of the accused could not be put to PW6 during his cross-examination by the previous counsel.

The Ld. Trial Court dismissed the application holding that the statements of PW6 pertained to the merits of the case and would be taken into consideration at the time of final adjudication. The statement Ex.PW6/A was well within the knowledge of the counsel for the petitioner when he conducted the cross-examination of PW6. Perusal of the record revealed that PW6 had been subjected to detailed cross-examination by the previous counsel. The Ld. Trial Court concluded that the application appeared to have been moved by the applicant just to fill up the lacunae in this case, which cannot be permitted as per law.

Court. The change of counsel cannot furnish any justification for the petitioner to summon a witness for further cross-examination on the ground of any omission by the earlier counsel.

Petition is dismissed.

December 09, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No