

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47771 of 2018 (O&M)
Date of decision : February 01, 2019

Bhupinder Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. M.S. Nagra, Deputy Advocate General, Punjab
for respondent No.1-State.

Mr. Gaganjit Singh, Advocate
for respondents No.2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer made in the petition is for quashing the order dated 9.10.2018 passed by the trial Court vide which the application filed by the petitioner under Section 311 Cr.P.C. for re-examining one witness P.K. Saini, whose statement has already been recorded as PW13 and for remaining some other witnesses, was dismissed.

At the very outset, counsel for the petitioner restricts his arguments to the extent that he may be permitted to re-examine PW13 R.K. Saini as he is a witness of a CD Mark PX, which could not be displayed during the recording of his statement, for the technical reasons and the petitioner had sought adjournment for bringing another set of CD.

Counsel for the petitioner submits that he already placed on record another copy of the CD. He further submits that PW13 R.K. Saini is a relevant witness as he has to prove the CD Mark-PX pertaining to the

second marriage of accused Rajinder Kaur with complainant-Bhupinder Singh, who appeared as PW5.

Counsel for the petitioner further submits that since this witness has already been examined in part and on account of a technical defect, the CD could not be displayed during the examination-in-chief and, therefore, the case was adjourned, as if the CD was displayed on that date, his complete statement would have been recorded on the said date.

Learned counsel for the respondents No.2 and 3 has, however, opposed the prayer on the ground that the charges were framed in this case on 27.1.2014 and it is noticed by the trial Court, while passing the impugned order, that as many as fifty opportunities, including the twenty last opportunities, have been granted to the prosecution to conclude its evidence, but the prosecution has failed to do so.

After hearing counsel for the parties, I find merit in the present petition to the extent that the petitioner be permitted to re-examine PW13 R.K. Saini, whose statement was not complete due to technical defects in displaying of CD. Still further, the evidence in the form of CD would enable the trial Court to record a categorical finding of the marital status of complainant Bhupinder Singh with accused Rajinder Kaur.

It is not disputed by counsel for the respondents that the statement of PW13 R.K. Saini was recorded in part and the CD of the marriage, when it was played in the Court was not in working condition. PW13 had stated that he has another set of CD and the same has already been placed on record of the trial Court.

Considering the fact that it is an old case, the revision petition is allowed with costs of Rs.30,000/- to be paid to respondents No.2 and 3, namely Avinash Kaur and Kartar Singh. The trial Court is directed to grant one effective opportunity to the petitioner to re-examine PW13 and prove the CD, in the presence of the accused persons, who are facing the trial.

Disposed of.

February 01, 2019
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(ARVIND SINGH SANGWAN)
JUDGE