

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 8532 of 2020 (O&M)

Date of decision : 27.2.2020

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Ashish Kumar Malik

.....Petitioner

vs.

Ramesh Kumar

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Satyaveer Singh, Advocate for the petitioner.

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H. S. Madaan, J. (Oral)

It is contended that during the trial lengthy cross examination of complainant running into five pages was conducted. However, when a certified copy of that statement was obtained, it revealed that a portion of the cross examination was missing. An application under Section 311 Cr.P.C. was filed on behalf of the accused for recalling the complainant to face further cross examination, which was however, dismissed by the trial Magistrate, vide impugned order dated 16.12.2019. Feeling aggrieved, the accused has approached this Court by way of filing a petition under Section 482 Cr.P.C.

I have heard learned counsel for the petitioner, besides going

through the record.

I find that the accused opted to take recourse of a wrong remedy. The accused should have filed an appropriate application before the trial Magistrate informing that a part of cross-examination of complainant was missing and then Magistrate was expected to enquire into the matter and to then come to the conclusion whether actually it so happened and if the conclusion drawn was in that regard, then suitable action was required to be taken against the officials/persons responsible for the loss of record, which is a very serious matter and then if so advised, the lost record could be re-constructed, after informing this Court on administrative side, as per rules.

Therefore, this petition is disposed of issuing direction to the petitioner to approach the trial Court by moving a suitable application and the trial Court on receipt of that application shall proceed further in accordance with law and rules.

27.2.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No