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

**CRR-761-2020 (O&M)**

**Date of decision-13.03.2020**

**Rama Pati Mishra**

**...Petitioner**

**Vs.**

**Sunil Kumar**

**...Respondent**

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Amit Choudhary, Advocate for the petitioner.

**\*\*\***

**MANOJ BAJAJ, J.**

This petition has been filed by the petitioner to challenge the order dated 27.01.2020 whereby application moved by the accused (petitioner) under Section 311 Cr.P.C for recalling the complainant, namely, Sunil Kumar for cross-examination was declined.

Learned counsel for the petitioner contends that recalling of witness Sunil Kumar (CW-1) for further cross-examination is necessary as certain questions are required to be put to him regarding his financial capability for advancement of the loan to the petitioner (accused). It is pointed out that according to the complainant, the property was sold by him and out of said sale consideration, the amount was paid to the petitioner.

During the course of hearing, it is not disputed by him that the said questions have already been put to the witness on behalf of the accused by his counsel during the cross-examination. At this stage, learned counsel for the petitioner submits that since the defence counsel has been changed

and therefore, it is necessary to recall the witness for further cross examination.

After hearing learned counsel for the petitioner, this Court finds that the ground raised in the application dated 15.01.2020 filed under Section 311 Cr.P.C (Annexure P-2), is not sufficient for exercise of power under Section 311 Cr.P.C. Mere change of counsel cannot be a ground for recalling the witness who was subjected to thorough and complete examination on behalf of the accused. It is settled law that the power under Section 311 Cr.P.C is to be exercised sparingly and only in cases where it is extremely necessary to recall witness for further cross-examination. A perusal of the impugned order reveals that the trial Court has carefully examined the facts and circumstances of the case while declining the application. This Court does not find any reason to interfere with the said order.

Resultantly, petition fails and dismissed.

**(MANOJ BAJAJ)**  
**JUDGE**

**13.03.2020**

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |