

CRM-M-10120 of 2020

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

CRM-M-10120 of 2020
Date of Decision: 06.03.2020

Baru

...Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Rajesh Bansal, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for recalling order dated 18.01.2020 (Annexure P-1) of the appellate Court, dismissing application of the petitioner under Section 311 Cr.P.C. (Annexure P-4) for recalling PW4 Head Constable Satinder for cross-examination.

Briefly, in a trial against petitioner and four others, in case FIR No.182 dated 28.05.2013 under Sections 323, 324 and 506 read with Section 34 IPC, prosecution examined PW4 Head Constable Satinder. Petitioner and his co-accused did not choose to cross-examine him. Thus, learned Magistrate, finding no option, closed evidence of the aforesaid witness by mentioning "opportunity given". "Nill". Finally, petitioner and his co-accused were held guilty under Sections 323 and 324 read with Section 34 IPC vide judgment of conviction dated 04.12.2018 and sentenced to undergo rigorous imprisonment for one year under Section 323 IPC and rigorous imprisonment for three years under Section 324 IPC vide order of sentence dated 06.12.2018.

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Being aggrieved, petitioner filed appeal. During its pendency, he moved application under Section 311 Cr.P.C. to recall PW4 Head Constable Satinder. The same has been dismissed by the appellate Court vide impugned order.

Heard.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Learned counsel for the petitioner is not able to explain as to why petitioner and his co-accused did not cross-examine PW4 Head Constable Satinder, despite affording them opportunity by the trial Court, who has now been sought to be recalled for cross-examination. Learned counsel has also not been able to explain as to what material question is to be asked from PW4 Head Constable Satinder. PW4 Head Constable Satinder was only a witness to the recovery with Investigating Officer PW1 SI Wazir Singh. Thus, he, on his recall, in cross-examination cannot depose contrary to the statement of PW1 SI Wazir Singh.

Keeping in view above factual aspects, this Court is not inclined to interfere with the impugned order.

Dismissed.

March 06, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No