

Sr. No. 202-A

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

**CRR-1253 of 2019 (O&M)
DATE OF DECISION : 09.10.2020**

Balwinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Dhawaljeet, Advocate
For the petitioner.

Mr. Luvinder Sofat, AAG Punjab.

Mr. M.S. Basra, Advocate
For the accused.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner is one of the witnesses in FIR No. 02 dated 10.01.2016, registered under Sections 302, 201, 404 read with Section 34 IPC, Police Station Ghuman Kalan, District Gurdaspur. Initially, she was given up by the prosecution, but later, on an application under Section 311 Cr.P.C. she was permitted to enter the witness-box vide order dated 19.01.2019. However, when she stepped into the witness-box and deposed on the lines of her initial statement recorded under Section 161 Cr.P.C., her deposition was not permitted. Her request was declined vide order dated 25.02.2019, impugned herein, by observing that vide order dated 19.01.2019 her statement was permitted to be recorded only qua the identification of dead body and the articles recovered there from.

2. Upon notice, learned State counsel as well as counsel for the accused submit that they have no objection if the petitioner is permitted to depose in entirety.

3. Mr. B.S. Basra, Advocate, who is representing the accused Surjeet Singh in connected petition bearing CRM-M-17302 of 2020, submits that he has instructions to say that accused has no objection to the petitioner being allowed to depose in entirety before the trial Court only if liberty is given to the accused also to cross-examine her.

4. The matter pertains to the year 2016 and trial is held up since 2019. Taking into account the stand taken by the accused, this Court is of the considered view that there is no legal impediment in allowing the petitioner to get her testimony recorded in the trial. No prejudice would be caused to the accused, who obviously will have an opportunity to cross-examine the petitioner. Moreover, a material witness cannot be restricted to depose in the case, which is essential for the just and proper adjudication of the case.

5. In the premise, petition is allowed. The trial Court is directed to record the statement of the petitioner pre her prayer. It is expected of the trial Court to record her statement as expeditiously as possible, subject of course to adherence of proper precautions on account of current pandemic scenario. It is also made clear that as and when her statement is to be recorded, no adjournment shall be granted at the instance of the accused.

6. Pending applications, if any, stand disposed of.

(ARUN MONGA)
JUDGE

October 09, 2020
Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No