

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

**CRM-M-42178-2018(O&M)
Date of decision: 12.02.2020**

Narinder Kaur

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Jagdish S. Mahal, Advocate for the petitioner.

Mr. Dhruv Dayal, Senior DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition under Section 482 Cr.P.C. is for setting aside the impugned order dated 12.07.2018 (Annexure P-3) in case bearing FIR No. 171 dated 18.11.2014 which was registered under Section 7 of Essential Commodities Act, 1955 and Section 9-B of Explosive Act, 1884 against Rakesh Kumar and Narinder Kaur (present petitioner) at Police Station Dhariwal, District Gurdaspur, vide which the application under Section 311 Cr.P.C. for recalling Joginder Singh (PW-1) and Parteek Mahajan (PW-2) for cross examination has been dismissed and for grant of effective opportunity to cross examine PW-1 and PW-2 by recalling and to stay further proceedings before the trial Court.

Learned counsel for the petitioner states that vide order dated 12.07.2018 (Annexure P-3) the application under Section 311 Cr.P.C. for recalling Joginder Singh (PW-1) and Parteek Mahajan (PW-2) for cross

examination was dismissed. On 13.06.2017, they were to be cross examined but the counsel for the applicant-petitioner was not available on that day because his father was suffering from liver problem. Learned counsel for the petitioner has also placed on record the medical record of Ashok Tewari- father of counsel for the applicant-petitioner, which indicates that he remained admitted in a hospital from 07.06.2017 to 11.06.2017 and thereafter he was referred to some other hospital for diagnosis. Because of this reason PW-1 and PW-2 could not be cross-examined on 13.06.2017.

Learned State counsel, on the instructions from SI Satpal Singh, states that out of 18 prosecution witnesses, only 7 prosecution witnesses have been examined. He further states that the application under Section 311 Cr.P.C. was dismissed by the trial Court and recalling the witnesses for cross examination will tantamount to review the order.

It is apparent from the medical record that the father of the counsel of the applicant, who have to cross-examine Joginder Singh (PW-1) and Parteek Mahajan (PW-2) was in hospital from 07.06.2017 to 11.06.2017 and thereafter he was referred to some other hospital for diagnosis, thus, the non cross-examining of PW-1 and PW-2 on 13.06.2017 was not intentional.

In view of the above, the order dated 12.07.2018 is set aside and one opportunity is granted to the petitioner to cross-examine Joginder Singh (PW-1) and Parteek Mahajan (PW-2).

Present petition is allowed.

(HARNARESH SINGH GILL)
JUDGE

12.02.2020

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No