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

CRR-47-2021 (O&M)

Date of decision-25.01.2021

Manpreet Kaur

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. SPS Sidhu, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this revision petition to challenge the order dated 05.01.2021, whereby the trial Court has proceeded to allow the application dated 16.12.2020 filed by the prosecution under Section 311 Cr.P.C and permitted the prosecution to adduce additional evidence. The impugned order was passed during trial in case FIR No.119 dated 21.05.2015 registered under Sections 302 and 34 Indian Penal Code, 1860 at Police Station Sadar Ferozepur, District Ferozepur.

The FIR was registered on the statement of Sukhdev Singh son of Surjeet Singh, wherein it was stated that he is an agriculturist and has six brothers & two sisters, who are married. Seven years ago, complainant's younger brother-Gurbachan Singh was married to Rajbir Kaur and due to mental health of Rajbir Kaur, his brother got panchayati divorce. In 2011, complainant's brother remarried to Manpreet Kaur (petitioner) and they were

blessed with a son, namely, Akashdeep Singh. Complainant's sister-in-law had illicit relations with one Rajbir Singh @ Judge, who was their neighbour. On 11.05.2015, at about 11.30 p.m., complainant heard noise from the house of his brother-Gurbachan Singh, and went to his house alongwith Subeg Singh. When they reached there, Rajbir Singh ran away and they found that Gurbachan Singh was dead. On 12.05.2015, they cremated Gurbachan Singh. According to the complainant, Manpreet Kaur in connivance with Rajbir Singh murdered Gurbachan Singh and as a proof he has recording of mobile phone of Manpreet Kaur. On these broad allegations, FIR was registered.

After commencement of trial in the above FIR, the prosecution examined its witnesses but during trial, an application was filed under Section 311 Cr.P.C for re-examination of PW-1 Hardeep Singh, PW-9 Jagjit Singh and PW-10 Inspector Yadwinder Singh in order to produce certificate under Section 65-B Indian Evidence Act, 1872 relating to the CD (Ex.PW 9/A) and also to summon additional prosecution witnesses, namely, ASI Resham Singh and Dr.Rashmi Sharma for production of mobile phone recovered from the accused for identification and comparison of voice samples as the FSL report stands received. Learned trial Court vide its order dated 05.01.2021, proceeded to allow the application. Aggrieved against the said order, the present revision petition has been filed by the petitioner-accused.

During the course of hearing, learned counsel for the petitioner was confronted with the maintainability of the revision petition, as the

impugned order is interlocutory in nature and the remedy of revision is prohibited by virtue of bar contained in Section 397(2) Cr.P.C. The issue of maintainability of revision against the order exercising the power under Section 311 Cr.P.C has already been dealt with by the Hon'ble Supreme Court in its judgment rendered in **Prabhu Chawla Vs. State of Rajasthan, 2016 (4) R.C.R.(Criminal) 270**. The said verdict was followed by this Court in **CRM-M-44082-2016**, titled as “**Sonia Vs. State of Haryana and others**”. According to these decisions, the remedy of revision is prohibited and the aggrieved party can invoke inherent powers under Section 482 Cr.P.C.

At this stage, Mr. Sidhu prays that the present revision petition be treated under Section 482 Cr.P.C.

The prayer is accepted.

Learned counsel for the petitioner has argued that the trial Court has allowed the application at the fag end of the trial and it would cause prejudice to the accused. According to him, the power under Section 311 Cr.P.C cannot be exercised to allow the prosecution to fill up the lacunae, therefore, the impugned order is against the law and interference is warranted by this Court.

After hearing learned counsel for the petitioner and examining the case file, this Court finds that the trial Court has considered the objections of the defence carefully while allowing the application under Section 311 Cr.P.C. It has been observed that not only the substantive evidence is on record, but is in the knowledge of the accused also and further the additional evidence sought to be adduced by prosecution is formal in

nature i.e. the certificate under Section 65-B Indian Evidence Act, 1872 relating to the CD (Ex.PW-9/A) and the examination of the relevant witnesses relating to the report of Forensic Science Laboratory.

In view of the above, no ground is made out for interference.

Dismissed.

(MANOJ BAJAJ)
JUDGE

25.01.2021

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