

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

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(Through Video Conferencing)

CRM-M-4567-2022

Date of decision: 04.02.2022

Gulzar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Lakshay Bector, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking quashing of order dated 13.10.2021 vide which an application filed by him under Section 311 Cr.P.C. before the trial Court for recalling of PW-8 in case FIR No.74 dated 30.06.2018 registered under Sections 363, 366-A and 376 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Koom Kalan, Ludhiana, was dismissed.

Learned counsel for the petitioner inter alia contends that PW8-Kuldeep Singh who had prepared the site plan of the occurrence in question could not be cross-examined before the trial Court with regard to Mark A (where the alleged occurrence took place) and Mark B (from where the petitioner was arrested), due to rush of work of the counsel representing him before the trial Court. Learned counsel submits that the trial Court thus gravely erred in not appreciating that for a just decision of the case, wide powers which had been vested in it ought to have been exercised, more so when the trial was still underway.

Heard and perused the material on record.

The discretion under Section 311 Cr.P.C. to recall a witness for his further examination, no doubt is wide, however, it has to be exercised with a great deal of circumspection and only if some strong and compelling reasons have been brought forth.

Adverting to the case in hand, PW8-Kuldeep Singh was examined on 24.02.2021. The application under Section 311 for seeking his further examination was moved after a delay of almost 7 months i.e. on 20.09.2021 and that too after the prosecution evidence had concluded and when the case was fixed for defence evidence.

Admittedly, the counsel for the petitioner was given due and ample opportunity to cross-examine PW8-Kuldeep Singh. Merely because certain questions were not put to the witness cannot be a ground to recall the witness for further cross-examination more so, when the prosecutrix in the present case was examined much prior to the examination of PW8-Kuldeep Singh and hence the petitioner had requisite material as well as ample opportunity to put relevant questions to the said witness.

Even otherwise, learned counsel for the petitioner has failed to satisfy this Court as to how the further cross-examination of PW8-Kuldeep Singh would be essential for the just decision of the case. It appears to be a ploy on the part of the petitioner to prolong and delay the trial which as already observed earlier is at the fag end.

Dismissed.

04.02.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No