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

CRM-M-10353-2022

Date of decision:10.03.2022

NAVROOP KAUR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Lakhwinder Singh Sidhu, Advocate
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (ORAL)

1. In the instant petition the petitioner challenges the order made on 31.01.2020, by the learned trial Magistrate concerned. The afore order was made on an application cast under Section 319 Cr.P.C. Through the order (supra), the learned trial Magistrate concerned, ordered for the summoning of the petitioner, as an accused in FIR No. 25 of 05.03.2015, registered at Police Station Bassi Pathana, District Fatehgarh Sahib. He also challenges in the instant petition, the order affirming the afore made order, and, as made on 05.01.2022, by the learned Additional Sessions Judge, Fatehgarh Sahib.

2. The learned counsel for the petitioner states at the bar, that the only evidence which has been relied upon, by both the learned Courts below in ordering for the adding of the petitioner, as, an accused in the above FIR (supra), alongwith other co-accused, rests upon the deposition comprised only in the examinations-in-chief of the PW-1, and, PW-3. Believing the afore made statement at the bar, both the learned Courts below could not on the untested

through cross-examinations being made upon the PWs concerned, proceed to assign the completest sanctity, and, solemnity, to their depositions comprised in their respective examinations-in-chief. Both the learned Courts below could proceed to assign *prima-facie* sanctity to the testifications of PWs (supra), only after both facing the ordeal of a rigorous of cross-examination, and, theirs remaining unscathed in the afore ordeal. However, as aforestated the completest testifications of PWs (supra), never came recorded, and, obviously in a slipshod, and, in a mechanical manner both the learned Courts below, solitarily on the basis of the depositions comprised only in the respective examinations-in-chief, of the PWs (supra), proceeded to allow the Public Prosecutor's application, as, cast under Section 319 Cr.P.C.

3. Consequently, the impugned order is quashed, and, set aside. However, as and when the deposition of PWs (supra), becomes completely recorded inasmuch as, after both facing the ordeal of a rigorous cross-examination, and, theirs remaining unscathed in the above process, thereupon it is permissible for the learned Public Prosecutor concerned, to make a fresh application under Section 319 Cr.P.C., against the accused concerned. If the above application is made, thereupon the learned trial Judge concerned, shall make thereons a decision in accordance with law.

4. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

10.03.2022

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Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No