

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRR-497-2019

Date of Decision: 15.11.2022

Gobind Parsad

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Rupam K. Aggarwal, Advocate,
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

KARAMJIT SINGH, J.

Present petition has been filed by the petitioner-accused seeking quashing of order dated 19.1.2019 passed by the trial Court whereby the application moved by the prosecution under Section 311 of Cr.P.C. to recall PW2-Jaspal Kumar for his further examination-in-chief and cross-examination, was allowed by the trial Court in criminal case having FIR No.130 dated 26.9.2013 under Section 379, 409, 411 IPC and Section 136 of Indian Electricity Act at Police Station Lahori Gate, Patiala.

Counsel for the petitioner while assailing the impugned order has submitted that PW2-Jaspal Kumar was examined by the prosecution and finally, the prosecution evidence was closed and thereafter, an application under Section 311 Cr.P.C. was moved on behalf of the State to recall the said witness in order to complete his statement and the same was allowed by the trial Court vide impugned order dated 19.1.2019. He has further submitted that after closure of the prosecution evidence, there was no

occasion for the trial Court to recall the aforesaid witness and as such, the impugned order is illegal and cannot be sustained in the eyes of law.

Present petition is opposed by the State counsel who while supporting the impugned order has submitted that from the perusal of Annexure P-2, it is evident that PW2-Jaspal Kumar appeared in the witness box on 11.7.2017 who was partly examined on that date and his further examination-in-chief was deferred but thereafter, the said witness never turned up for his further examination and in the meantime, the prosecution evidence was closed. State counsel has further submitted that the prosecution moved an application under Section 311 Cr.P.C. in order to further examine the said witness and the same was allowed by the trial Court vide impugned order and that there is no illegality or infirmity in the impugned order.

I have considered the submissions made by the counsel for the parties.

From the perusal of Annexure P-2, it appears that PW2-Jaspal Kumar was partly examined by the trial Court on 11.7.2017 and in his part statement, he deposed that on 17.10.2013, he along with Bimal Kant went to Police Station Lahori Gate, Patiala where he identified the stolen wires (case property) which was shown to him by the investigating officer ASI Gurmail Singh. On that day, the said witness was partly examined in chief and his further examination was deferred and thereafter, the said witness failed to appear in the trial Court and finally, the prosecution evidence was closed. Thereafter, the prosecution moved an application under Section 311 Cr.P.C. to recall the said witness in order to complete his statement and the same was allowed by the trial Court vide impugned order dated 19.1.2019.

This Court is of the view that PW2-Jaspal Kumar is a material witness and his part statement (Annexure P-2) cannot be read into evidence and his testimony is required for just decision of the case and thus, PW2-Jaspal Kumar has rightly been recalled by the trial Court to complete his testimony. Thus, there is no illegality or perversity in the impugned order.

Consequently, the present petition is hereby dismissed being devoid of merits. The case being of the year 2015, the trial Court is hereby directed to expedite the trial and to dispose of the same, preferably within next 4 months.

(KARAMJIT SINGH)
JUDGE

November 15, 2022
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No