

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

CRM-M-20768 of 2022

Date of Decision: 21st July, 2022

Suraj Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sachin Ohri, Advocate for the petitioner.
Mr. Amit Mehta, Senior DAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

This petition is filed seeking quashing of order dated 7.3.2022 passed in case of FIR No. 34 dated 18.4.2019, under Sections 379B, 323, 34 IPC, registered at Police Station Division 1, Pathankot. The application for re-calling of Narinder Singh for further cross-examination was dismissed.

As per the allegations in the FIR, an incident took place on 17.4.2019. The two riders of motor cycle bearing registration No. PB-02-CN-1683 snatched the gold chain of the complainant. The pillion rider-Suraj Kumar (petitioner) was known to the complainant and was identified.

PW1-Narinder Singh had deposed in the trial on 18.11.2019, on the request of defence counsel, his cross-examination was deferred. On 19.11.2019, he was cross-examined at length. The prosecution concluded its evidence on 23.11.2021. Since 2.12.2021 the trial is fixed for defence evidence. In spite of availing five opportunities, no defence evidence has been adduced. The application under Section 311 Cr.P.C. was filed.

The trial court considering that the complainant was cross-examined at length by counsel for the accused, no *prima facie* reason had been put forth for re-calling of the complainant for further cross-examination, dismissed the application.

Learned counsel for the petitioner submits that further cross-

examination of the complainant is necessary as the deposition is in variance with the allegation in the FIR. He submits that the complainant deposed in examination-in-chief that on the date of occurrence, petitioner-Suraj Kumar was driving the motor-cycle, whereas in the FIR it was alleged that the petitioner was pillion rider, hence needs to be cross-examined.

Only for the purpose of deciding the present petition, the deposition of the complainant is being dealt with and comments thereon shall not be construed as an expression of opinion on the merits of the case.

From the reading of the deposition, the contention raised by learned counsel for the petitioner is found to be factually incorrect. The complainant deposed that petitioner-Suraj Kumar was arrested on 18.4.2019 while driving motor cycle bearing registration No. PB-02-CN-1683 and gold chain was recovered. The Investigating Officer took possession of the motor cycle. Further that the petitioner was the pillion rider at the time of occurrence. The deposition is in consonance with the allegations of the FIR.

Having failed to show even *prima facie* re-calling of Narinder Singh for further cross-examination is necessary, no interference is called for in the impugned order.

The petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

21st July, 2022
mk

Whether reasoned/speaking	Yes
Whether reportable	No