

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

**CRM-M-24180 of 2022
Date of Decision:- 31.05.2022**

Rishipal

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Aditya Bhushan, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Petitioner has filed the present petition for setting aside of order dated 12.05.2022 passed by the Court of Additional Chief Judicial Magistrate, Jind, Annexure P-5, whereby the application filed by the petitioner for summoning the defence witnesses in criminal case having FIR No.225 dated 13.08.2013 under Section 279, 304-A IPC, Police Station Sadar, Jind. Haryana has been dismissed.

Earlier the petitioner filed CRM-M-44267-2018 which was decided by this Court vide order dated 20.04.2022, Annexure P-3, which reads as under:-

“After arguing for some time, the counsel for the petitioner wishes to withdraw the present petition with liberty to file fresh application for summoning of defence witnesses with better particulars with regard to their relevancy to the present case, before the trial Court.

In view of the above, the present petition is dismissed as withdrawn with aforesaid liberty to the petition. However, it is made clear that the appropriate application should be moved by the defence counsel before the trial court within next 20 days from today.”

The petitioner filed fresh application before the trial Court to summon Anita wife of Surender resident of village Elewa, District Jind, who was working in Guru Dronacharya School at the time of accident, Randhir Singh @ Dheera lamberdar son of Dilip Singh resident of Elewa, District Jind, who at the time of accident was present with the petitioner in village Elewa, Ram Mehar son of Krishan resident of vilalge Elewa, District Jind, who was also present with the petitioner in village Elewa at the time of accident and the concerned official of Dronacharya School, Safidon Road, Jind along with attendance register of staff, pay-slip/pay register of all drivers and conductors of the school for the year 2013 and CCTV footage of

12.08.2013 to 13.08.2013 to prove the presence of accused at some other place.

The aforesaid application was disposed of by the trial Court vide impugned order dated 12.05.2022.

From the perusal of impugned order, it transpires that the trial Court dismissed the aforesaid application for summoning of defence witnesses on the ground that earlier also similar application moved by the petitioner was considered and declined by the predecessor of the present incumbent (Ld. ACJM, Jind) and that in the earlier application the relevance of each of the summoned witnesses was not mentioned in the application and further the application was moved at the belated stage after availing four opportunities to lead the defence evidence. The trial Court while passing the impugned order further observed that there being no provision for review, the previous order cannot be reviewed by the trial Court.

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

The petitioner has given the relevance of four witnesses which he intends to examine in his defence, in the application itself. The petitioner has got every right to examine the defence witnesses which are relevant to prove his innocence. The request of the petitioner could not be declined just on the ground that the same was made at belated stage. As the fresh application was filed by the

petitioner in the light of order dated 20.04.2022 passed by this Court, so the question of reviewing of its own order by the trial Court does not arise at all.

In view of the matter, the present petition is hereby allowed and the impugned order dated 12.05.2022 (Annexure P-5) is set aside and the trial Court is directed to summon the aforesaid defence witnesses at the expense of the petitioner. However, it is made clear that production of the record of concerned school for the year 2013 including CCTV footage are subject to there availability.

The petitioner is directed to appear before the trial Court on the next date fixed.

Any observation made herein above is not to be considered as expression of opinion on the merits of the case. The present order has been passed just for the disposal of the present petition and has got no bearing on the veracity and relevance of the testimony of aforesaid witnesses.

31.05.2022
P. Chawla

(KARAMJIT SINGH)
JUDGE

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