

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

**CRM No.30668 of 2021 in/and
CRR No.951 of 2021 (O&M)
Date of Decision.21.09.2022**

Harish Chander

...Petitioner

Vs

State of Punjab and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. A.S. Gulati, Advocate
for the petitioner.

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JAISHREE THAKUR J. (ORAL)

CRM No.30668 of 2021

This is an application that has been filed under Section 482 Cr.P.C. for modification/recalling of the order dated 07.09.2021 whereby the criminal revision has been dismissed as withdrawn on the statement made by the counsel appearing for the petitioner.

Learned counsel appearing for the applicant/petitioner herein contends that he in fact intended to address arguments on merit and never intended to withdraw the revision petition.

Keeping in view the averments made, the order dated 07.09.2021 passed by this Court is hereby recalled and the criminal revision petition is restored to its original number and is taken up for hearing today itself.

CRR No.951 of 2021

The instant petition has been filed by the petitioner seeking to challenge the order dated 12.08.2021 passed by the trial court whereby the application filed under Section 311 Cr.P.C. for recalling of two witnesses

namely Amrita Sehra (PW1) and Jaspreet Kaur (PW3) has been dismissed.

In brief, the facts are that the petitioner, who was employed with Punjab State Power Corporation Ltd. (PSPCL) and posted at Patiala, came to be nominated as an accused in FIR No.64 dated 24.08.2018 registered under Sections 354, 354-A, 354-D, 341, 506 IPC at Police Station women, Patiala at the behest of the complainant Ms. Sonia Khatri, who is none other than the sister of the wife of the petitioner herein. The complainant had registered the aforesaid FIR on the allegation that the petitioner, who was working in the same department with the complainant, was harassing her and interfering in her personal life, while also intimidating her by passing lewd remarks. On the basis of the FIR, the petitioner is facing trial and two witnesses namely Amrita Sehra and Jaspreet Kaur were examined by the prosecution, who were colleagues and co-employees of the complainant. The said witnesses were cross-examined in detail by counsel appearing for the petitioner, Mr. M.S. Tiwana, Advocate. However, as the petitioner was not satisfied, he moved an application for recalling of the witnesses to bring forth the truth and consequently, render justice. In the application, it was submitted that there were various discrepancies in the statements recorded and therefore, it was imperative to recall the witnesses to reveal the truth.

Notice of the application was issued and it was contested by the prosecution. After hearing the counsel for the parties, the trial court dismissed the same holding that no ground was made out to recall the witnesses.

Learned counsel appearing on behalf of the petitioner herein would contend that the impugned order is not sustainable as Section 311

Cr.P.C. permits recalling of witnesses at any stage and therefore, since the counsel appearing for the petitioner before the trial court did not put relevant questions to both the witnesses, the application ought to have been allowed. It is argued that the witnesses had deposed by improving and concocting a false version and therefore, one more opportunity be allowed to the petitioner to cross-examine the witnesses.

I have heard learned counsel for the petitioner and have perused the detailed order as passed by the trial court. The trial court while passing the impugned order came to the conclusion that the application under Section 311 Cr.P.C. has been filed only to delay the trial. The trial court took note of the fact that one prosecution witness from the same department was harassed and made to appear in court eight times by the petitioner herein before completing the cross-examination and now the present application has been moved for summoning the witnesses after a period of two years of their cross-examination. The trial court came to the conclusion that the application for recalling the witnesses has been filed only to fill up the lacunae, which could not be permitted.

A perusal of the impugned order would reflect that PW-1 Amrita Sehra had appeared on 25.04.2019, on which date, her cross-examination was deferred at the request of the counsel for the petitioner. Similarly statement of Jaspreet Kaur was recorded on the same day and her cross-examination was also deferred. The cross-examination was again deferred on 15.05.2019 when the matter was adjourned to 31.05.2019, on which date, the cross-examination was again not conducted and the matter was listed for 04.07.2019. On 04.07.2019, the cross-examination was done partly. The case was then adjourned as noted by the trial court eight times

on the request of counsel for the petitioner (these dates are not inclusive of dates given during covid pandemic) and therefore, taking into account the conduct of the petitioner, the application for summoning the witnesses for cross-examination was declined.

There is no ground made out by the counsel appearing for the petitioner to recall the witnesses. The application filed under Section 311 Cr.P.C. cannot be allowed merely on the ground that counsel for the petitioner stands changed and he has found that certain questions were to be put to the witnesses during their cross-examination. In that eventuality, if permission is allowed, it would tantamount to allowing the petitioner to cover up the lacunae, which cannot be permitted.

In view of the aforesaid facts and circumstances, no ground is made out to interfere with the order dated 12.08.2021 passed by the JMIC, Patiala. Consequently, the criminal revision petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

September 21, 2022

Pankaj*	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No