

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-1656-2022 (O&M)
Date of Decision:-29.10.2022

Raju ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.S. Dhaliwal, Advocate with
Mr. K.P.S. Virk, Advocate and
Mr. J.S. Kang, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 21.7.2022 passed by learned Sessions Judge, Jind vide which the learned Trial Court has declined his application under Section 311 Cr.P.C. seeking recalling of PW-1 Prem Singh, PW-2 Bijender and PW-12 Rajesh for further cross examination.
2. The petitioner alongwith co-accused Sunil is facing trial for offence under Section 302 IPC in the Court of learned Sessions Judge, Jind, wherein it is alleged that they had murdered the complainant Ravinder Singh in the presence of his father by firing at him. The FIR had been lodged at the instance of Ravinder Singh himself but later he succumbed to his injuries. The matter was investigated by the police and upon conclusion of investigation challan was presented and charges were framed against the

accused. During the course of trial, the prosecution examined PW-1 Prem Singh, PW-2 Bijender and PW-12 Rajesh. The said PWs were duly cross-examined on behalf of the accused during the year 2019. Subsequently, in the year 2022 the petitioner moved an application under Section 311 Cr.P.C. seeking recalling of the aforesaid PWs.

3. Though a copy of the application under Section 311 Cr.P.C. has not been annexed with the petition but the learned counsel for the petitioner submits that the ground taken therein for recalling PWs was that some material questions regarding the antecedents of the witnesses, who themselves were involved in some cases, were required to be put to the said witnesses. Reply was filed to the said application before the Trial Court. The Trial Court, upon considering the submissions addressed before it, declined the said application, vide impugned order.
4. Learned counsel for the petitioner submits that since stringent punishment is provided for offence under Section 302 IPC including death sentence, therefore, the accused ought to be provided with full opportunity to defend themselves and that in the present case since material questions could not be put to the witnesses, the accused stand seriously prejudiced in defending themselves. It has thus been submitted that the impugned order cannot sustain and is liable to be set aside.
5. This Court has considered the submissions addressed before it.
6. Though the application under Section 311 Cr.P.C. has not been annexed with the petition but having regard to the contentions addressed before this Court and upon perusal of the impugned order, this Court finds that the PWs sought

to be recalled had been duly cross-examined at length. The mere fact that any of the PWs was himself involved in some other case, as has been contended by learned counsel for the petitioner and said witness had not been confronted with said fact *ipso facto* will not furnish a ground for recalling such witness. Nothing has been shown to this Court as to how the petitioner stands prejudiced in case the said witnesses are not recalled. Any application under Section 311 Cr.P.C. cannot be accepted as of right. This Court does find any infirmity in the impugned order and the same is upheld. Finding no merit in the instant petition, the same is hereby dismissed.

29.10.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No