

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-2120-2022

Date of Decision: 10.10.2022

Narinder Pal

... Petitioner

VS.

Shiv Kumar & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. BS Saini, Advocate for the petitioner

Sandeep Moudgil, J. (Oral)

Learned counsel for the petitioner seeks recalling of CW2 Dr. Ritu Banga, CW3 Parminder Kaur, Radiographer and MHC of Police Station Kheri Naudh Singh along with record of case FIR No.115 dated 13.11.2011 registered at Police Station Khamanon under Section 323/341/34 IPC which has been denied vide impugned order dated 13.09.2022 by the trial court. He submits that the original medical record declaring nature of the injuries of the complainant is also lying with the cancellation report, which has not been produced in the court intentionally apart from other reports including x-ray films and opinion of medical board.

Since the case is at the stage of framing of charges, no prejudice would be caused to the other party and in fact, the present petition by which the impugned order has been challenged before this Court has failed to reflect the reason as to what prejudice would be caused except observing various case laws and in the last concluding that there is nothing on record which shows that as to what prevented the applicant to get the examination deferred and call for the documents mentioned by the said witnesses. As per the contention of the petitioner, an application in that regard was also moved on 28.11.2019 and the police file was also produced before the said Court and

Considering the fact that the case is at the initial stage of trial and the case law in **Randhir Singh vs. State of Haryana, 2020(1) CCC 782 (P&H)** wherein the doctor was not even mentioned in the list of PWs due to oversight, this Court held that the doctor is a necessary witness for the examination to reach to a proper conclusion and to prove the case in hand.

This Court is of the considered view that since no prejudice would be caused to the other side if CWs are allowed to be recalled for the examination, along with record, as sought by the petitioner and the fact that apparently this medical evidence may turn out to be a conclusive proof to adjudicate upon the complaint by the trial court.

Accordingly, this petition is allowed and the order dated 13.09.2022 is quashed. However, the petitioner is bound down to examine the witnesses and the relevant record before the trial court on the next date. Since the case is stated to be listed tomorrow before the trial court, the trial court is accordingly directed to adjourn the case to some other date enabling the petitioner to examine the witnesses sought to be recalled and the relevant record, before the trial court.

Ordered accordingly.

10.10.2022

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No