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

CRM-M-54173-2021 (O&M)

Date of decision:02.02.2022

RAJPAL

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Dinesh Singh Rawat, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is facing charge for an offence under Section 307 of IPC. The afore made charge against the petitioner is a result of FIR No.0132 of 03.03.2018, becoming registered at Police Station Samalkha, District Panipat. In support of the charge (supra), the prosecution had ensured the stepping into witness box of the injured/complainant, one Ashok Kumar. A reading of the copy of the photocopy of the testification of the above, as, becomes recorded by the learned trial Judge concerned, reveals that the above witness had, after his testification becoming read over and explained to him, hence made his signatures thereons. Though, the afore factum, does enable this Court, to deduce that the testification, of one Ashok Kumar, who appeared as PW-2 has ended, and, also

enables this Court to infer that the learned defence counsel had acquiesced to his completely conducting cross-examination, upon, PW-2.

2. However, an application was subsequently moved by the learned defence counsel before the learned trial Judge concerned, claiming relief, that since PW-2, is the star prosecution witness, and, that his cross-examination, was not completely recorded, therefore, unless he is recalled for re-cross-examination, thereupon, the accused's defence, with respect to the above charge, would become completely frustrated, and, also his defence would be *jeopardised*. The reason as meted in the application, is that the testification of PW-2 had ended because the Court broke for lunch recess, and, that the learned defence counsel, conceived that after resumption of Court proceedings, upon, ending of the lunch recess, the learned trial Judge would permit him, to conduct cross-examination upon PW-2, yet his being surprised, that the learned trial Judge concerned, had proceeded to end the cross-examination, of PW-2, through securing his signatures on his testification.

3. Though, as above stated the above made prayer in the application, is *prima-facie* rather not supported through the factum of PW-2, one Ashok Kumar signing his testification, and, hence his completest testification becoming recorded by the learned trial Judge concerned. Moreover, though this Court is not inclined to interfere with impugned order. Nonetheless, only for ensuring that the accused's defence, is not frustrated nor is *jeopardised*, and, also in the expediency of complete justice being done, this Court orders, that the prosecution shall ensure the re-stepping into the witness box of PW-2, and, thereafter, he shall be permitted to become re-cross-examined by the learned defence counsel.

4. Accordingly, learned trial Judge concerned, is directed to issue the relevant process, for the aforesaid purpose, and, to upon the re-stepping into the witness box of PW-2, permit the learned defence counsel to re-cross-examine PW-2, but only with respect to those suggestions, which remained yet unmeted to him earlier by the learned defence counsel.

5. With the afore observation, the petition is disposed of.

6. Pending miscellaneous application(s), if any, stand(s), disposed of.

02.02.2022

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(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-	Yes/No
<i>Whether reportable:</i>	<i>Yes/No</i>