

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

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**CRM-M No. 7597 of 2023
Date of Decision : 13.2.2023**

Gautam Sekhri

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Hardik Ahluwalia, Advocate, for the petitioner

TRIBHUVAN DAHIYA J. (ORAL):

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of the order dated 16.11.2022 (Annexure P-2) passed by the trial Court, whereby the petitioner's application filed under Section 311 Cr.P.C. for recalling the witness/PW-1 for his further cross-examination, has been dismissed.

Learned counsel for the petitioner has argued that the witness could not be cross-examined on material points by the previous counsel. The fact came into the notice of the petitioner/accused only after change of counsel before the trial Court. Thereupon an application dated 25.3.2022 (Annexure P-1) was filed for recall of the witness for further cross-examination, in the interests of justice. He further submits that the application could not be moved earlier by the petitioner because the matter had been referred to mediation by the trial Court.

Learned counsel does not deny that the Mediator's report is still awaited, however, the trial is going on. The application has been declined by the trial Court by observing that the statement of witness/PW-1, recorded under Section 161 Cr.P.C. during investigation, was furnished to the petitioner under

Section 207 Cr.P.C., and no new fact has surfaced since then. Just because the witness could not be properly cross-examined by the earlier counsel, is no ground to allow the application under Section 311 Cr.P.C. for recalling the said witness.

Learned counsel for the petitioner is not in a position to point out any provision of law which permits recalling witness for cross-examination on the stated ground of alleged inability of a counsel to cross-examine him/her on material aspects despite having been afforded due opportunity.

In view thereof, no exception can be taken to the order passed by the trial Court.

Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

13.2.2023

Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No