

CRM-M-9732-2023

Date of decision: 24.02.2023

Jagsir Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. B.S. Sidhu, Advocate
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

The instant petition has been filed by the petitioner under Section 482 Cr.P.C. challenging the order dated 22.04.2022 (Annexure P-1) passed by the Court of learned Sub Divisional Judicial Magistrate, Phul, whereby, PW-2-Chanan Singh has been allowed to be re-examined on the oral request of the learned Additional Public Prosecutor. The said order reads as under:-

“PW-2 Chanan Singh is present and cross examined. Thereafter, learned APP for the State requested for re-examining of the witness on the ground that new matter has been introduced in the cross- examination of the witness. However, learned defence counsel raised an objection to the effect that the witness Chanan Singh has already been cross examined and has put his signature on the same. He further submitted that the learned APP for the State has to file application before re-examination of the said witness.

I have heard learned APP for the State and the learned defence counsel and have gone through the relevant provisions of law.

Section 138 of Indian Evidence Act, 1872 provides that the witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts, but cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

Direction of re-examination- The re-examination shall be directed to the explanation of matters referred to in cross- examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross- examine upon the matter.

In view of the provisions of Indian Evidence Act, the Court is competent to allow the witness who is present in the Court to be re-examined by

learned APP for the State as re-examination is an integral part of examination of an witness and for this purpose, fresh application is not required as the witness is very much present in the Court.

The witness has re-examined by learned APP for the State but he has not been further cross examined by learned defence counsel and he requested for adjournment on the ground that he want to file revision against the order of the Court. Case is adjourned to 10.06.2022 for remaining evidence of prosecution.”

Learned counsel for the petitioner contends that PW-2-Chanan Singh has been allowed to be re-examined on the oral request of the learned Additional Public Prosecutor without there being any application for the said purpose. He further submits that the impugned order passed by the trial Court is not sustainable in the eyes of law.

Per contra, the learned State counsel submits that there is no merit in the petition and same deserves to be dismissed.

Heard learned counsel for the parties and perused the record.

In terms of Section 138 of the Indian Evidence Act, the trial Court has rightly allowed the APP to re-examine the witnesses for the witness was present in the Court. No ground, is therefore, made out to accept the petition. The prayer made by the petitioner cannot be countenanced with.

The present petition stands dismissed accordingly.

24.02.2023

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**(NAMIT KUMAR)
JUDGE**

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