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

**CRR-494-2023 (O&M)
Date of Decision: 01.09.2023**

Mithun

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aruz Khan, Advocate,
for the petitioner

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Manoj Tanwar, Advocate
for respondents No.2 to 10.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present revision petition has been filed assailing the order dated 20.01.2023 passed by the learned trial Court (Additional Session Judge Karnal), vide which the application moved by the prosecution under Section 311 Cr.P.C. for the purpose of recalling and re-examining the complainant to prove the contents of an application dated 05.08.2020 (Annexure P-1) has been declined.

2. Learned counsel for the petitioner has submitted that in the present case when the incident had taken place the petitioner, who is the complainant along with two more persons, namely, Surinder Kumar and Vicky were present at the spot and they had submitted a joint application/complaint to the police vide Annexure P-1 on 05.08.2020, but

thereafter, the police had not taken the aforesaid application/complaint on record nor it was made a part of the challan, but the aforesaid application/complaint goes to the root of the controversy since the aforesaid two persons were also present at the spot and at the time of their deposition, they retracted from the application/complaint which was filed and signed/thumb marked by them as well. He submitted that therefore the prosecution had moved the application under Section 311 Cr.P.C. for recalling and re-examining the complainant in order to prove the aforesaid letter, since it goes to the root of the controversy of the case. He further submitted that even otherwise also the matter is still at the stage of prosecution evidence and therefore, the learned Additional Session Judge, ought to have allowed the application since it would not amount to delaying the trial.

3. Mr. Manoj Tanwar, Advocate has appeared on behalf of respondents No.2 to 10, who were the accused before the trial Court and has submitted that he has specific instructions to state from all the respondents No.2 to 10 that they have no objection in case the application under Section 311 Cr.P.C. is allowed, in view of the fact that because of the pendency of the present revision petition, the trial is not commencing. He further submitted that rather respondents No.2 to 10 are interested in the speedy trial itself.

4. Mr. Vishal Kashyap, DAG, Haryana has appeared on behalf of the respondent No.1/State.

5. I have heard learned counsel for the parties.

6. The present is a case where the prosecution has filed an

application for recalling and re-examining the complainant only for the specified purpose that is for the purpose of proving Annexure P-1 which was the application/complaint given by the petitioner along with two more persons, namely, Surinder Kumar and Vicky to the police and the present case is still at the prosecution stage. The learned counsel for the private respondents, who were the accused, have also stated that they have no objection in case the application is allowed so that the trial can commence fast.

7. In view of the above, the present revision petition is allowed and the impugned order dated 20.01.2023 is hereby set aside. The learned trial Court shall grant one more opportunity to the prosecution to recall the complainant for the purpose of his re-examination as so prayed for in the application filed under Section 311 Cr.P.C.

01.09.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No