

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

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**CRM-M No. 11016 of 2023
Date of Decision : 2.3.2023**

Suresh Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Mukesh Yadav, Advocate, for the petitioner

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition for setting aside the order dated 22.2.2023 (Annexure P-3), whereby the petitioner's/accused's application under Section 311 Cr.P.C. to recall the prosecutrix/PW-1 for cross-examination has been declined.

2. As per facts apparent on record, the prosecutrix was examined as PW-1 in the presence of accused in open Court. The petitioner was afforded opportunity to cross-examine the prosecutrix and he cross-examined her. After two and a half year thereafter, the instant application under Section 311 Cr.P.C. has been moved, ostensibly on account of the fact that some family members of the prosecutrix have turned hostile to the prosecution case.

3. Learned trial Court while dismissing the application has held that it was vague and merely stated some material questions remained to be asked to the prosecutrix in cross-examination. It was not even mentioned in the application as to what were those material questions, which could not be put to the prosecutrix at the time of cross-examination and why. Even now learned counsel for the petitioner has no answer in that regard. It is well settled in law

that recall of a witness cannot be allowed merely on the asking of the accused, especially when the witness has been duly cross-examined by him.

- 4. In view thereof, there is no ground to entertain the petition.
- 5. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

2.3.2023
Ashwani

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