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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR 867-2023
Date of Decision 11.09.2023*Ramesh Kumar**.....Petitioner**versus**State of Punjab**...Respondent***Coram Hon'ble Mr. Justice Rajbir Sehrawat**Present: Ms Gurmeet Kaur, Advocate for
 Mr. F S Virk, Advocate the petitioner

Mr. Sandeep Singh, Additional Advocate General, Punjab

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Rajbir Sehrawat, J, (Oral)

The present criminal revision petition has been filed, assailing the order dated 20.03.2023 passed by the Additional Sessions Judge, Patiala, whereby the trial Court has been directed to proceed with the trial without examining the court witness i.e. Dr. Usha Dhingra.

A perusal of the paper book shows that the victim/deceased Ujjagar Singh was taken to A.P. Jain Hospital, Rajpura, Patiala after having suffered burn injuries. The petitioner is accused of inflicting burn injuries to the said victim - Ujjagar Singh. The said victim was referred to the Government Medical College and Hospital, Sector 32, Chandigarh by A.P. Jain Hospital, Rajpura. At A.P. Jain Hospital, Rajpura, Patiala, the victim is stated to have been attended by one Dr. Usha Dhingra, whereas, at Government Medical College and Hospital, Sector 32, Chandigarh, the victim is stated to have been attended by Dr. Usha Dalal. The evidence of the

prosecution is already over. In the said evidence, Dr. Usha Dalal has already been examined as a prosecution witness. After recording of statement under Section 313 of the Code of Criminal Procedure, the petitioner moved an application for summoning the above said Dr. Usha Dhingra for her examination as a Court witness. Several notices were sent to the said Dr. Usha Dhingra at the addresses given by the petitioner. However, she could not be served. Ultimately, the Court below came to the conclusion that the whereabouts of the said doctor are not known, therefore, she could not be summoned by the Court while exceeding the powers under Section 311 of the Code of Criminal Procedure. Another reason given by the trial Court is that, almost on of the same aspect, Dr. Usha Dalal has deposed and has even been cross-examined by the accused. Accordingly, the trial Court has not found any necessity of summoning of Dr. Usha Dhingra under Section 311 of the Code of Criminal Procedure. The present petition has been filed, challenging the said order dated 20.03.2023 passed by Additional Sessions Judge, Patiala.

Arguing the case, counsel for the petitioner has submitted that the petitioner wants to examine the said doctor (Dr. Usha Dhingra) and wants to put her certain questions qua conditions of the victim when he was brought to A.P. Jain Hospital, Rajpura, Patiala. The said victim was not conscious when he was taken to the AP Jain Hospital, Rajpura, Patiala. If the victim was not conscious, then there was no question of the victim/deceased having made any dying declaration. The case of the prosecution would be totally demolished when the said doctor is permitted to be examined.

Having heard counsel for the petitioner and having perused the case file, this Court does not find any substance in the arguments raised by counsel for the petitioner. The factum of the victim/deceased, firstly having been brought to A.P. Jain Hospital, Rajpura, Patiala, and then being referred to the Government Medical College and Hospital, Sector 32, Chandigarh is not disputed by the petitioner. The medical record of the treatment of the victim/deceased has already been brought on record by the prosecution. The treating doctor, *namely* Usha Dalal has already been examined as a witness. She has proved the medical record and has deposed on the basis of the same that conscious level of the victim/deceased was 15/15. The said doctor has even been cross-examined by the petitioner. However, nothing substantially has come to fore to demolish the testimony of Dr. Usha Dalal, which, otherwise, is duly supported by the medical record. As per this record, the deceased was conscious when brought to Government Medical College and Hospital, Sector 32, Chandigarh. Therefore, the testimony of Dr. Usha Dhingra, even if she is examined, would not be of much relevance, being relating to a stage much prior to the death of the victim/deceased.

Moreover, the trial Court has already made earnest efforts to summon the said witness. However, she could not be served because of want of her correct address on the file. Now, the petitioner claims to have got the address of the said doctor (Usha Dhingra) but even the said address pertains to the State of Andhra Pradesh. Therefore, again, it would not be sure that any more effort of the trial Court would lead to any certain availability of the said doctor at that place.

In view of the above, this Court does not find any merit in the

petition, and the same is dismissed.

However, nothing observed here-in-above would affect the merits of the case during the trial.

(Rajbir Sehrawat)
Judge

11.09.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No