

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-25341-2023 (O&M)

Date of order: 28.08.2023

Navdeep Singh @ Navv

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Hitesh Chopra, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG Punjab.

Nidhi Gupta, J.

Prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 19.04.2023 (Annexure P4) passed by learned Additional District Judge, Pathankot vide which the application of the petitioner under Section 311 Cr.P.C. has been rejected in case FIR No.12 dated 18.02.2020 under Sections 363, 366, 376 IPC and Section 4 POCSO Act (Section 376 IPC and Section 4 POCSO Act added later on vide DDR No.42 dated 20.02.2020) registered at Police Station Division No.2, District Pathankot (Annexure P1).

2. Learned counsel for the petitioner/accused submits that the petitioner had earlier examined PW2-prosecutrix on 06.10.2022. However, thereafter, on 20.10.2022, the mother of the petitioner had received a letter (Annexure P-2), from the prosecutrix under registered cover stating therein that she had made her statement as PW2 under

pressure from the police. Learned counsel states that for justice to be done in the matter, it is of great importance that the petitioner be granted one opportunity to confront the prosecutrix-PW2 with the said letter which was received under registered cover. It is submitted that from the said letter, it is evident that the petitioner has been falsely implicated in the matter and for just and proper trial, it is necessary to determine whether the said letter was written voluntarily.

3. Learned counsel further states that Section 311 Cr.P.C. stipulates that:

“Any Court may, at any stage of any inquiry, trial or other proceedings under this Code, summon any person as a witness or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already re-examine; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

4. It is submitted that accordingly, as per the above said, provision, the Court may *at any stage*, summon, recall or re-examine any person who has already been examined, as the object of Section 311 Cr.P.C. is to enable the Court to arrive at the truth by calling for or producing whatever is considered to be relevant and render a just decision in the matter after considering all relevant facts and obtaining proof of such facts.

5. Mr. Mayank Gupta, Advocate puts in appearance on behalf of the prosecutrix and files Vakalatnama which is taken on record.

Ld. Counsel submits that he has no objection if the present petition is allowed, and one effective opportunity is granted to the petitioner to re-examine the prosecutrix.

6. There is no dispute to the fact that as per the above said provision wide discretion is granted to the Court. Clearly, the fresh evidence received in the present matter is essential to the just decision of the case.

7. In view of the above said facts and legal position, present petition is **allowed**. The impugned order dated 19.4.2023 is set aside. The learned trial Court is directed to grant one effective opportunity to the petitioner to again cross-examine the prosecutrix.

8. Pending application(s) if any also stand(s) disposed of.

28.08.2023
Sunena

(Nidhi Gupta)
Judge

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