

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

CRR-776-2018(O&M)

Date of Decision:-27.03.2023

Amarjit Singh @ Robit.

.....Petitioner.

Vs.

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Vaibhav Narang, Advocate for the Petitioner.

Ms. Navreet Kaur Barnala, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision has been preferred against the order dated 01.02.2018 passed by the Additional Sessions Judge, Amritsar whereby an application filed by the prosecution under Section 311 Cr.PC for summoning Manseesh Singh has been allowed.

2. The brief facts of the case are that Harjinder Kaur got lodged an FIR with the allegations that she had two children, a son Jaswinder Singh @ Romi and daughter Daljit Kaur. Jaswinder Singh @ Romi was married and had two children. She (complainant) had left the house to go to gurudwara in the afternoon leaving behind her daughter-in-law Parwinder Kaur and grand children at the house whereas her son Jaswinder Singh @ Romi had gone for work. In the evening at about 7.30 pm she (complainant) met her daughter-in-law Parvinder Kaur at the gurudwara along with her children. She (daughter-in-law) had stated that she had left behind her husband Jaswinder Singh @ Romi at home after serving him meals. When they all

went back home at 9.45 PM, her (complainant's) daughter-in-law went upstairs on the upper portion and started screaming loudly. She (complainant) also went to the upper portion and saw that the body of her son Jaswinder Singh @ Romi was lying in a pool of blood as some unknown person had committed his murder with a sharp edged weapon.

3. During the course of investigation it transpired that Parvinder Kaur was in a love affair with one Amarjit Singh (petitioner) because of which the deceased had been murdered. Based on these allegations the instant FIR came to be registered and a report under Section 173(2) Cr.PC came to be filed.

4. Thereafter charges were framed and a number of prosecution witnesses were examined.

5. Subsequent thereto an application under Section 311 Cr.PC was moved as the prosecution wished to examine Manseesh Singh son of the deceased as a prosecution witness. As per the application, he was an eye witness and had seen the occurrence and, therefore, his deposition was essential for the just adjudication of the case. The copy of the application dated 23.01.2018 is attached as Annexure P-2 to the petition.

6. A response was filed by the accused wherein it was stated that a new version was being coined by the prosecution. In fact Manseesh Singh has never been cited in the list of witnesses and had not been associated with the investigation at any earlier stage. Therefore, the application under Section 311 Cr.PC ought not be allowed. A copy of the reply dated 01.02.2018 is attached as Annexure P-3 to the petition.

7. Ultimately, vide order dated 01.02.2018 the said application came to be allowed and PW-Manseesh Singh was ordered to be summoned for recording his evidence. The said order is impugned in the present

revision petition.

8. The Counsel for the petitioner contends that the instant application had been moved at a belated stage. Had Manseesh Singh been present at the spot and had been an eye witness, his statement ought to have been recorded earlier. In fact a new version was being sought to be set up by moving the instant application. It is lastly contended that the order passed is completely cryptic and non speaking. The court had not recorded its satisfaction that the evidence of the witness sought to be summoned in terms of Section 311 Cr.PC was essential for the just adjudication of the case. He, therefore, prays that the impugned order was liable to be quashed/set aside.

9. The Counsel for the State on the other hand contends that the deposition of Manseesh Singh was essential for the just adjudication of the case. Merely, because the application had been moved at a belated stage did not take away the right of the prosecution to examine the witness in terms of Section 311 Cr.PC. In fact an application under Section 311 Cr.PC can be moved at any stage uptill the pronouncement of the final judgment. He, therefore contends that the impugned order was not liable to be quashed.

10. I have heard learned Counsel for the parties at length.

11. A perusal of the order dated 01.02.2018 impugned herein would reveal that it is completely cryptic. It reads as under:-

“ Reply to the application under Section 311 Cr.PC is filed. Heard. Keeping in view the averments made in the application, application under Section 311 Cr.PC is allowed and PW Manseesh Singh son of deceased Jaswinder Singh be summoned for 16.02.2018.”

12. A reading of the aforementioned order would show that it is completely bereft of any reasoning whatsoever. There is no discussion as to why the application was to be allowed and PW-Manseesh Singh was to be

summoned. Therefore, I find considerable merit in the present petition.

13. In view of the above, the present petition is allowed and the impugned order dated 01.02.2018 is quashed. The matter is remanded back to the Trial Court for a fresh adjudication on merits. The Trial Court shall decide the application under Section 311 Cr.PC afresh within a period of 04 weeks from the next date of hearing fixed before it. Till the decision of the application under Section 311 Cr.PC, the Trial Court shall not pronounce the final judgment in the Trial.

14. Disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 27, 2023

Vinay

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