

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2193 of 2022

Date of Decision: January 09, 2023

Sonu

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Sandeep Lather, Advocate
for the petitioner

Sudhir Mittal, J. (Oral)

The petitioner is an accused in an FIR No.181 dated 30.05.2020 registered at Police Station Gohana Sadar, District Sonapat, under Sections 341, 379-A, 392, 397 of IPC and Section 25, 54 of Arms Act, 1959. He filed an application under Section 311 of Cr.P.C. for recalling the eye-witness PW-5. The same has been dismissed vide the impugned order dated 04.08.2022.

Learned counsel for the petitioner has submitted that according to the FIR, the accused persons had muffled faces, When PW-5, the alleged eye-witness was produced in Court via video conferencing, he identified the petitioner under police pressure. An affidavit to this effect has been subsequently executed by him and, thus, recalling of the witness is essential. The Court below has erred in dismissing the application.

The Court below has found as a matter of fact that PW-5 had been cross examined at length by the petitioner and nothing adverse could be elicited. Thereafter, the execution of affidavit by him shows that he has been won over and, thus, the application has been dismissed.

No factual error has been pointed out in the aforementioned finding. Section 311 Cr.P.C gives the trial Court discretion to recall any person if it is essential for the just decision of the case. Keeping in view the finding reached by the trial Court, the discretion to reject the application has been rightly exercised. The order impugned is not erroneous in any manner.

The revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

January 09, 2023

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No