

2023:PHHC:060863

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-46280-2019 (O&M)
Date of Decision:-28.4.2023

Sanjeev Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Brijeshwar Singh Bhalla, Advocate,
for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

Mr. Arshdeep Singh Brar, Advocate,
for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 19.9.2019 (Annexure P-11) passed by the Court of learned Additional Sessions Judge, Moga, vide which the learned Trial Court has accepted an application filed by the prosecution under Section 311 Cr.P.C. for the purpose of recalling PW-12 - Baaj Singh as a witness.
2. The allegations, in nutshell, are that the accused, who was working as Inspector in the Weights and Measures Department had been demanding illegal gratification for the purpose of certification of weighing scales. The aforesaid witness i.e. PW-12 – Baaj Singh had conducted a preliminary

inquiry in the matter pursuant to which FIR came to be lodged. Thereafter, the matter was investigated by said PW-12 – Baaj Singh himself and upon conclusion of investigation report under Section 173 Cr.P.C. came to be filed. Charges were framed and prosecution witnesses were examined. PW-12 – Baaj Singh was examined during trial, during the course of which he was extensively cross-examined.

3. The prosecution now seeks to recall the said witness on the premises that the preliminary inquiry report prepared by the said witness has not been formally proved. The Trial Court accepted the said application vide impugned order dated 19.9.2019 (Annexure P-11), which has been assailed before this Court.
4. This Court has considered the rival submissions addressed before this Court.
5. This Court finds that the witness i.e. PW-12 – Baaj Singh, who is the Investigating Officer, had been examined and cross-examined at length during the proceedings of trial. The ground furnished in the application dated 5.9.2019 (Annexure P-4) moved by the prosecution under Section 311 Cr.P.C. for recalling PW-12 – Baaj Singh is precisely to the effect that the said witness had not deposed regarding the preliminary inquiry dated 25.2.2016, which is on the case file, whereas a perusal of the impugned order dated 19.9.2019 reveals that the witness has deposed about the said inquiry report i.e. Ex.PW-12/F.
6. In these circumstances, the grounds for recalling are certainly not made out. In any case, any such inquiry report cannot be termed as substantive evidence and once the witnesses have deposed in the Court, such a preliminary inquiry report will virtually lose its significance. In these circumstances, the revision petition merits acceptance and is hereby

accepted. The impugned order dated 19.9.2019 (Annexure P-11) is hereby set aside.

7.
- Since it has been informed that the trial has not concluded yet and is otherwise at its fag end, the Trial Court is directed to take necessary steps for expediting and concluding the trial at the earliest.

28.4.2023
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No