

CRM-M-14247-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(127) CRM-M-14247-2024
Date of Decision:-09.04.2024

Sunita @ Reeta
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Rishu Mahajan, Advocate for the petitioner.
Mr. Siddharth Attri, AAG, Punjab.

ALOK JAIN, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. with a prayer for setting aside the order dated 24.05.2022 (Annexure P-7) passed by learned Judicial Magistrate First Class, Jalandhar whereby the evidence of the petitioner was closed and the application under Section 311Cr.P.C. for recalling the prosecution witness namely Sunita@Reeta for the purpose of producing the attested documents of medical treatment of the deceased obtained from PGI, Chandigarh had been declined.
2. Learned counsel for the petitioner, at the outset, submits that the said impugned order dated 01.11.2022 (Annexure P-10) was challenged by filing a revision, however, the Revisional Court vide impugned order

CRM-M-14247-2024

2

dated 27.02.2024 (Annexure P-11) disposed of the revision by holding that the revision is not maintainable against an interlocutory order and, hence, the petitioner has approached this Court.

3. Averting to the merits of the case, learned counsel for the petitioner submits that the deceased, who was inflicted with injuries was referred to PGI, Chandigarh and later on succumbed to it, however, the Doctor who treated the deceased at PGI, Chandigarh did not come present before the trial Court to depose as a witness. He also raises allegations that the Investigating Officer did not join any of the medical staff nor took any other relevant documents from PGI, Chandigarh and this loophole in the investigation could be fatal to the prosecution case and the victims endeavour to seek justice. He also submits that as per the provisions of Section 311 Cr.P.C., an application can be moved at any stage before the judgment is pronounced so as to bring out the truth. The said documents would be important for demonstrating the pain and agony suffered by the deceased before he succumbed to the injuries suffered by him. Learned counsel for the petitioner also submits that the learned trial Court fell in error by disallowing the application on the ground that the petitioner is not a specialized person in the field of medicine. The counsel submits that the documents so sought to be produced in the evidence are duly attested by PGI, Chandigarh and in case, there is any difficulty in understanding the medical record, it would be open to the Court to seek the testimony of a competent Doctor from PGI, Chandigarh, and merely the fact that the Doctor who treated the deceased did not come present for his testimony

CRM-M-14247-2024

3

cannot be taken as a ground to disallow the application moved by the petitioner.

4. Learned State counsel submits that the application is only to delay the trial and the petitioner is not a specialized person who could comment upon the veracity of the medical report as she is not an expert in the field of medicine.

5. Heard learned counsel for the parties.

6. Seeking a detailed reply will only procrastinate the trial which is pending since 2017.

7. The Hon'ble Supreme Court of India in case ***Zahira Habibullah Sheikh & Anr vs State Of Gujarat & Ors.*** has held that the determinative factor to decide an application under Section 311 Cr.P.C. is that whether it would be essential to the just decision of the case.

8. In light of the peculiar facts and circumstances and the settled proposition of law which enables the Court to recall, examine or re-examine any witness under Section 311 Cr.P.C. for proper dispensation of justice, the order dated 01.11.2022 (Annexure P-10) warrants modifications by this Court.

9. In light of the above, the present petition is disposed of with a direction to trial Court to grant the petitioner two effective opportunities to file the documents obtained by her under RTI Act from PGI, Chandigarh and before the trial Court and it shall be open to the trial Court to summon the Doctor from PGI, Chandigarh for his testimony, if so required. In case, the concerned Doctor who had treated the deceased is not available then

CRM-M-14247-2024

any other Doctor who could explain the medical report be summoned for his testimony.

10. In light of the above, the present petition is disposed of.

09.04.2024
manju

(ALOK JAIN)
JUDGE

Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No