

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25023-2019 (O&M)
Date of Decision: February 14, 2024

SUKHDEV KAURPetitioner
Versus
SATPAL SINGH AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. B.S. Bhalla, Advocate for the petitioner.
Mr. Ashish Gupta, Advocate for respondents No.1 to 10.
Mr. Davinder Bir Singh, Sr. DAG, Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for setting aside the order dated 08.03.2019 passed by Judicial Magistrate, First Class, Moga whereby the application filed under section 311 of CrPC at the instance of petitioner-complainant stands declined.

2. In the present case, FIR No.125 dated 28.08.2016 was registered under Sections 148, 149, 452, 506, 323, 324, 427, 447 and 448 of IPC (Section 325 of IPC added later on), P.S. Dharamkot, Moga at the instance of petitioner-complainant wherein, upon framing of charges, the petitioner-complainant appeared as PW-1. Her examination-in-chief was recorded on 01.12.2018 and the trial was deferred for her cross-examination. In the meanwhile, an application under Section 311 CrPC came to be filed at the instance of petitioner-complainant which was opposed at the instance of private respondents and was finally declined by the trial Court vide order dated 08.03.2019.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that certain relevant information which was required

to be brought before the Court at the instance of petitioner, including the identity of the alleged accused which somehow could not be made in the examination-in-chief and as such her further examination was very much necessary for the complete and effective adjudication of the case and thus, the trial Court committed illegality while declining the application.

4. On the other hand, learned counsel representing the private respondents submits that once lacuna has been left in the examination-in-chief which goes in favour of the private respondents/accused, the petitioner cannot be permitted to fill the same by way of her further examination.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

6. In the present case, in pursuance to the FIR registered on the basis of her statement, the petitioner appeared as PW-1 and the examination-in-chief was recorded on 01.12.2018, however, immediately thereafter, sensing some inadequacy in her statement, an application was filed at her instance for further examination which on being opposed was declined by the trial Court. In the given facts, once the application was promptly moved at the instance of the petitioner, without losing any time, the trial Court instead of following a hyper-technical approach should have proceeded further by having adopted a pragmatic approach so as to add on to the cause of justice.

It may be pointed here that the procedural aspects are merely to regulate the proceedings and are not to be used to curtail the substantive rights of the parties. Once an application was promptly moved at the instance of petitioner for seeking permission to re-examine herself and that too even before start of her cross-examination, the same ought to have been allowed by the trial Court as it would not cause any prejudice to the rights of the private respondents who would always have right to cross-examine the petitioner.

7. Resultantly, the order dated 08.03.2019 passed by Judicial Magistrate First Class, Moga is set aside and the application filed under Section 311 CrPC at the instance of petitioner-complainant stands allowed.

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

14.02.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

