

**CRM-M-32999-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.121****Case No. : CRM-M-32999-2024****Date of Decision : July 16, 2024**

Jagdish Singh

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Virat Amarnath, Advocate
and Ms. Satjot Kaur, Advocate
for the petitioner.

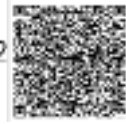
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GURBIR SINGH, J. :

1. The present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 06.03.2023(Annexure P-3), passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby application of the petitioner dated 26.07.2022 (Annexure P-1), under Section 311 Cr.P.C., for recalling the witnesses, has been dismissed. Further challenge is to the order dated 13.05.2024 (Annexure P-6), passed by learned Additional Sessions Judge, Ludhiana, whereby revision petition filed by the petitioner against the aforesaid order dated 06.03.2023, has also been dismissed.

2. Brief facts, necessary for disposal of present petition, are that FIR No.253 dated 25.11.2013, under Sections 420, 465, 468 and 471 IPC (Sections 466, 474 and 218 IPC were added later on) was registered against the petitioner at Police Station, City Khanna, District Khanna.

3. After completion of investigation, challan was filed and thereafter, charges were framed against the petitioner on 21.05.2014. After the



evidence of prosecution commenced, during pendency of the case, the petitioner moved an application under Section 311 Cr.P.C. for summoning three witnesses for the purpose of their further examination, which was dismissed by the learned Trial Court and revision against the said order was also dismissed.

4. Learned counsel for the petitioner has argued that during pendency of trial, petitioner had changed his counsel. The new counsel, after going through the file, noticed that some material questions have not been put to the witnesses namely Rajinder Singh (PW-1), Complainant T.P.S. Randhawa (PW-2) and SI Jaggar Singh (PW-5). Since the said questions were necessary to be asked, application in question was moved before the learned Trial Court.

5. I have heard the arguments advanced by learned counsel for the petitioner and have also perused the case file.

6. The case in question was got registered by T.P.S. Randhawa, SDJM, Khanna, who was cross-examined on three occasions i.e. on 15.12.2017, 15.01.2018 and 06.03.2018. As per reply filed by the State to the application in question, the cross-examination of all the three witnesses was conducted at length. The application for recalling the witnesses was moved after the lapse of more than four years and there is no explanation for the same. In the application, it is not mentioned as to what were the questions, to be put to the witnesses. The learned Trial Court has also mentioned in its order that all the witnesses mentioned in the application have already been cross-examined at length by the learned counsel for the accused.

7. No doubt, Courts have the power under Section 311 Cr.P.C., where a witness can be called by the Court for further examination, but the said power is to be exercised judiciously for strong and well reasons to meet the ends of justice. A witness cannot be recalled merely on the ground that certain questions were not put during the course of his cross-examination. The petitioner has failed to show that recalling the aforesaid witnesses, the Court would not be able to adjudicate the matter. This Court draws support from a judgment of Hon’ble Gujarat High Court in the case of **Imran Karimbhai Madam vs. State of Gujarat – Law Finder Doc Id # 2116455** and the law laid down by Hon’ble Supreme Court in case **Natasha Singh vs. CBI (State) – (2013) 5 SCC 741.**
8. Keeping in view the facts that application moved by the petitioner is lacking details as to which of the questions have been left to be asked to the witnesses on recall; whether those questions are actually necessary for just decision of the case and also the fact that the said application has been filed after lapse of more than four years, I do not find any merit in the present petition, which is accordingly dismissed in limine.
9. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations recorded above are only for the purpose of deciding the present petition.
10. Pending applications, if any, shall stand disposed of along with this judgment.

July 16, 2024

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.

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