

2024:PHHC:116495



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

118 **CRM M-42742 of 2024**
Date of Decision: 03.09.2024
Sagar Dhillon @ Dhillon ...Petitioner
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Hitesh Chopra, Advocate, for the petitioner
(through V.C.)

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 29.05.2024 (Annexure P-3) passed by the Court of Additional Sessions Judge, Gurdaspur, whereby, the application filed by the present petition under Section 311 Cr.P.C. has been dismissed.
2. Learned counsel for the petitioner contends that in the present case, the FIR was registered on the basis of the statement made by Raman Kumar son of Rafiq. As per him, on 24.12.2017, he alongwith his uncle Malkeet Singh were going from their house towards Church to celebrate Christmas and reached in front of the house of Soma Masih @ Toti Baba at about 10.30 p.m. In the

meantime, Sagar Dhillon armed with *Dattar*, Amit Masih armed with *Sua* and Soma Masih @ Toti Baba armed with *Kirpan* were standing in the street and demanded money for taking liquor. Due to this, there was exchange of hot words between them. In the meantime, Bholi and Darshana also came out of their house and Bholi exhorted them to teach a lesson to the complainant. Then all the assailants attacked Raman Kumar and he was caused injuries by them. Ultimately, on the statement by Raman Kumar, FIR No. 16 dated 19.01.2018 under Sections 307, 326, 323 and 34 IPC, Police Station City Batala, District Batala was ordered to be registered against the petitioner and others.

3. During the course of trial, statement of Raman Kumar, complainant, was recorded as PW8, whereas, statements of Malkeet Singh and John Peter were recorded as PW9 and PW10, respectively.

4. During the course of trial, the petitioner moved an application (Annexure P-2) under Section 311 Cr.P.C. with a prayer to recall PW8 Raman Kumar. It was stated in the application that Raman Kumar was examined as PW8, however, during cross-examination certain important questions were not asked from him and this has caused prejudice to the petitioner. Consequently, it was necessary to summon PW8 Raman Kumar in the present case.

5. I have heard learned counsel for the petitioner and perused the record.

6. In the present case, Raman Kumar was examined as PW8 on 03.12.2019, whereas, the present application under Section 311 Cr.P.C. was filed by the petitioner on 16.12.2023, when the case is at the fag end and listed for defence evidence. Even, after the examination of PW8 Raman Kumar, statements of PW9 Malkeet Singh and PW10 John Peter were recorded, who had not supported the case of the prosecution. However, after examination of PW9 Malkeet Singh and PW10 John Peter before the trial Court, no such application was moved by the petitioner before the trial Court and now after a long delay of more than 04 years, the present application has been moved by the petitioner. Apart from that, from a perusal of the application (Annexure P-2), it is evident that it has been simply stated that the petitioner could not ask certain questions to PW8 Raman Kumar in his cross-examination and, thus, the questions are to be put to him. However, the averments made in the application are completely vague and even, during the course of arguments, learned counsel for the petitioner could not point out the questions, which were to be put to the said witness in the cross-examination. Rather, it appears that only reason for recalling the witness is that the matter appears to be have been compromised between the parties. However, the said compromise in a non-compounding offence is no ground to recall the witness for further cross-examination.

7. Findings no merits, the petition is ordered to be dismissed.

03.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No