

**CRR-641-2025****-1-**

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

114**CRR-641-2025****Date of decision: 10th March, 2025**

Pardeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

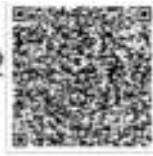
Present: Mr. Rahul Gautam, Advocate for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana.

MANISHA BATRA, J (ORAL):-

Prayer in this petition has been made by the petitioner for setting aside the order dated 17.02.2025 passed in Sessions case bearing No. SC/54/2022 tilted as 'State of Haryana Vs. Radha Rani and others', arising out of FIR No. 229 dated 29.06.2021 registered under Sections 147, 149, 302, 323, 379-B, 506 and 120-B of IPC at Police Station Agroha, District Hisar, Haryana, whereby the Court of learned Additional Sessions Judge, Hisar had dismissed the application as filed by the petitioner under Section 348 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') [which is pari materia with Section 311 of Cr.P.C.].

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner had lodged the aforementioned FIR, on the allegations that on the night of 28.06.2021, his wife and her family members along with 5-6 unknown persons, had come to his agricultural



land and had opened an assault upon his father and himself, took away his mobile phone and cash amount of Rs.4,000/- from his father and then fled. His father was taken to hospital but during the course of treatment, he succumbed to the injuries and died. Offence under Section 302 of IPC was added. Presently, the trial against the accused is going on. The petitioner had been examined in-chief on 23.08.2024 as PW-6 before the learned trial Court and his cross-examination was completed on 24.10.2024. Thereafter, he filed an application under Section 348 of BNSS for his further examination by submitting that blood stained clothing of his father and himself could not be produced in the Court during the course of his examination. The application has been dismissed vide order dated 17.02.2025 by the learned trial Court and feeling aggrieved, the petitioner has filed this petition.

3. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law, since the petitioner wanted his re-examination only for the purpose of producing and proving the blood stained clothing of his victim father and himself in evidence, since they are material pieces of evidence and would effect the outcome of the trial. The identification of this clothing from the complainant is quite essential. No prejudice whatsoever would be caused to the accused since he would be getting opportunity to further cross-examine the petitioner. Even otherwise the prosecution evidence is still being recorded by learned trial Court. It is therefore, argued that the petition deserves to be allowed.

4. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.



5. The petitioner who is the complainant in the aforementioned complaint has since been examined. However, he seeks his re-examination for the purpose of proving the blood stained clothing of his father and himself and identifying the same. The prosecution evidence is still being recorded by the trial Court. In my considered opinion, the proposed evidence can be allowed since that has a bearing on the case. Moreso, by producing so, no prejudice would be caused to the respondent as the clothing has even otherwise been taken into custody by the police. Accused would be getting opportunity to cross-examine the petitioner.

6. In view of the discussion as made above, the petition is allowed, the impugned order is set aside and the petitioner is ordered to be recalled as a witness for the purpose of his further examination only to prove the blood stained clothing of his father and himself. The petitioner shall appear before the concerned Court on the very next date of hearing as fixed by the learned trial Court and shall record his statement by way of re-examination by confining his statement to the extent of proof of the clothing in question. The prosecution shall ensure production of the said clothing before the Court of that particular date. The accused shall be given opportunity to cross-examine the petitioner with regard to the evidence which shall be produced by him.

7. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

10th March, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*