



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

CRM-M-15900-2025 (O&M)
Date of decision: 29th April, 2025

Sadhu Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jaswinder S. Randhawa, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 03.03.2025 passed by the Court of learned Judicial Magistrate 1st Class, Jalandhar (Annexure P-1) in FIR No.16 dated 02.02.2019 under Sections 406, 420, 120-B of the IPC and Section 24 of the Immigration Act, 1983 registered at Police Station Division 7, Jalandhar.

2. The petitioner is seeking recall and re-examination of prosecution witnesses, namely the complainant, i.e. the petitioner himself and his son, on the ground that their earlier testimony was allegedly procured by fraud and misrepresentation practiced by the accused/private respondents.

3. Learned counsel for the petitioner submits that during the pendency of the proceedings, a compromise was purportedly arrived at between the complainant/petitioner and the accused/private respondents, which was duly recorded before the Mediation and Conciliation Center.

In furtherance thereof, the accused respondents allegedly assured the complainant that the balance amount of ₹ 72,10,000/- would be paid. Relying on such assurance, it is contended, the complainant and his son reposed trust and subsequently made favourable statements before the trial Court. It is urged that at the time of their examination, the accused respondents purportedly showed a screenshot suggesting a bank transfer of the remaining amount. However, this transfer never materialized, and the screenshot allegedly turned out to be fabricated. Consequently, the complainant and his son, while deposing before the trial Court as PW-1 and PW-2 respectively, resiled from the prosecution case and were declared hostile.

4. Learned counsel submits that an application seeking their recall for re-examination was moved on the premise that their prior testimony was vitiated by deception and amounts to a fraud upon the Court. It is urged that, being directly affected by the alleged misrepresentation, the complainant/petitioner ought to be granted a limited opportunity to place the true facts on record, thereby enabling the Court to arrive at a just conclusion.

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

6. The material on record discloses that both the complainant and his son appeared before the trial Court as PW-1 and PW-2 respectively, and were examined as prosecution witnesses on more than one occasion. Their statements were recorded in open Court, read-over to them, and duly signed without demur or protest. At no stage during their examination was any grievance voiced regarding incomplete

payment or deception. Their depositions were unequivocal and categorical.

7. In particular, PW-1 (the complainant) in his testimony, clearly deposed that he had never made any complaint against respondents No.2 and 3, and specifically denied any allegation of cheating in the context of sending his son, PW-2 Gurjinder Singh, to Canada. He further asserted that he had never even met the said accused. His testimony was clear and unambiguous, and led to his being declared hostile. PW-2 Gurjinder Singh, the son of the complainant, echoed this position. He, too, categorically denied having made any complaint against the respondent/accused and affirmed on oath that he neither knew nor had ever met the accused persons. As a result, he was similarly declared hostile.

8. Significantly, despite the witnesses having been declared hostile, the defence elected not to exercise the right of cross-examination under Section 138 of the Indian Evidence Act/ Section 138 of the Bharatiya Sakshya Adhiniyam (BSA), 2023.

9. The application seeking re-examination is also procedurally flawed. It is not shown that the application was moved by or through the public prosecutor. There is no material on record to indicate that permission under Section 302 of Cr.P.C./ Section 302 of BNSS, was either sought or granted in favour of the complainant to conduct the prosecution independently. It is well settled that the complainant, in such circumstances, cannot assume dominion over the prosecution nor dictate the manner of its conduct.

10. The plea that a false representation was made by the respondent/accused outside the Court, remains entirely unsupported by

any contemporaneous material. Even assuming the assertion of misrepresentation to be correct, it does not *ipso facto* furnish a legal basis to recall and re-examine witnesses who have already deposed on oath in Court. The remedy for such alleged fraud, if any, lies elsewhere and not through reopening of testimony that was voluntarily and consciously rendered.

11. In view of the above discussion, the prayer for recall of witnesses is found to be devoid of merit and is accordingly dismissed.

12. It is, however, clarified that nothing in this order shall preclude the petitioner from seeking such legal remedies, as may be otherwise available to him under law. He shall remain at liberty to initiate appropriate proceedings against the accused, if so advised, in accordance with law.

(MANJARI NEHRU KAUL)
JUDGE

April 29, 2025
rps

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