

2025:PHHC:089711

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

H.S. GREWAL, J. (ORAL)

2. Learned counsel for the petitioner contended that the complainant CW1 Jai Agnani was cross-examined on 03.02.2024 but the petitioner was not produced on that day as the production warrants against him were not issued and he was confined in custody in another FIR. This fact is clear from the order dated 03.02.2024 (Annexure P-14). However, the cross-examination of the complainant was completed on the very same day in the absence of the present petitioner who was accused in the proceedings. Therefore, the petitioner has made an application under Section 311 Cr.P.C. for recalling of the complainant CW1 Jai Agnani for cross-examination but the same was

declined by the trial Court vide impugned order dated 04.01.2025 (Annexure P-1) on the ground that merely because of the fact that the accused/petitioner was in custody in another FIR, no ground is made out to recall the complainant for cross-examination. It has also been observed that the complaint case was filed in the year 2018 and the cross-examination was conducted in the year 2024. Learned counsel, therefore, submits that the observations made by the trial Court itself are not appropriate to decline the application under Section 311 Cr.P.C. wherein the evidence was closed in the absence of the petitioner-accused.

3. I have heard learned counsel for the petitioner and perused the material available on record.

4. In view of the limited prayer made by the learned counsel for the petitioner, this Court deems it appropriate to decide this case without issuing notice to the respondents. Keeping in view the facts and circumstances of the case and limited prayer made by the counsel for the petitioner, the order dated 04.01.2025 (Annexure P-1) is set aside and the petitioner is granted one opportunity to cross-examine the complainant on the date fixed by the trial Court. This exercise should be done as and when the petitioner produced before the learned Court on production warrant. However, no further adjournment shall be granted to the petitioner for cross-examination of the complainant CW1-Jai Agnani.

5. Accordingly, the petition stands allowed.

21.07.2025

Janki

(H.S.GREWAL)
JUDGE

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