



CRM-M-39683-2019

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

**CRM-M-39683-2019
Date of Decision: 04.02.2025**

Sachin

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kartik, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Piyush Aggarwal, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure praying for setting aside the order dated 04.09.2019 (Annexure P-1) passed by learned Additional Sessions Judge (Exclusive Court), Jhajjar whereby application under Section 311 Cr.P.C. for recalling of PW-5 & PW-7 has been dismissed.

2. Learned counsel for the petitioner has submitted that it is a case where the petitioner, who is an accused, had filed an application under Section 311 Cr.P.C. for recalling of two witnesses i.e. PW-5 & PW-7, who are the complainant and the brother of the deceased on the ground that when they were cross-examined, some questions were left with regard to the demand of dowry. He further submitted that although both the aforesaid



witnesses were cross-examined on 04.05.2019, but some questions are left to be put to them and therefore, the application under Section 311 Cr.P.C. was filed because now there is a change of counsel and therefore, the present petition may be allowed in the interest of justice.

3. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana as well as the learned counsel for the complainant have submitted that it is a case where although an application under Section 311 Cr.P.C. was filed for seeking further recalling of the aforesaid two witnesses, but when both of them were cross-examined, they were cross-examined thoroughly and properly and all the questions which the counsel had thought fit were put to the aforesaid witnesses i.e. PW-5 & PW-7 and therefore, the mere fact that some questions were left if at all and the fact that there was a change of counsel that does not become a ground for recalling the aforesaid witnesses.

4. Learned counsel for the complainant further submitted that even in the application under Section 311 Cr.P.C. which was filed by the petitioner, it is not stated as a ground that there was a change of counsel and in fact it was only stated in a vague manner that during the cross-examination of the aforesaid two witnesses i.e. PW-5 & PW-7, some material cross questions and suggestions regarding the demand of dowry and manner of death were left and not put to the witnesses inadvertently. He also submitted that the mere fact that some questions are left would not mean that the entire trial gets delayed because of the aforesaid reason and it does not become a ground for allowing the application under Section 311 Cr.P.C.

5. I have heard the learned counsels for the parties.

6. The application which has been filed by the petitioner vide



Annexure P-3 is reproduced as under:-

“IN THE COURT OF MS. SHASHI CHAUHAN ASJ, JHAJJAR

State

v/s

Sachin

FIR no.330/06.07.2018

U/s 304B, 315 IPC

P.S: Beri

*APPLICATION FOR RECALLING PWs CHANDER PRAKASH S/O
RAJENDER PRASHAD AND SANTOSH DEVI W/O RAJENDER
FOR FURTHER CROSS EXAMINATION U/S 311 CR.PC.*

Respected Madam,

The Applicant/Accused submits as under:-

- 1. That the above titled case is pending today for recording the statement of accused U/s 313 Cr.PC.*
- 2. That Chander Prakash and Smt. Santosh Devi were examined as Pw5 & PW7 respectively on 04.05.2019.*
- 3. That during the course of cross examination of the above said witnesses some material cross questions & suggestions regarding the demand of dowry & manner of death were left and not put to the witnesses inadvertently. The further cross examination of the above named witnesses on the above said count is very material and necessary for the just decision of the case.*

It is therefore prayed that the above named witnesses may kindly be called U/s 311 Cr.PC. for further cross examination.

*Accused/Applicant
Sachin S/o Surender R/o
Village Dhandlan Distt.
Jhajjar.”*

7. Learned counsel for the petitioner has taken two grounds. Firstly that there has been a change of counsel and now fresh questions were required to be put to the aforesaid two witnesses. The aforesaid ground was not taken in the application and even otherwise also change of counsel is not a ground for recalling the witnesses. Secondly, a perusal of the application



under Section 311 Cr.P.C. (Annexure P-3) would show that the application is vague in nature and as per the learned counsels for the parties, the matter is now at the argument stage and the trial of the case is at the fag end.

8. A perusal of the impugned order dated 04.09.2019 (Annexure P-1) would show that learned trial Court had specifically so observed that both the aforesaid two witnesses i.e. PW-5 & PW-7 have already been duly cross-examined on 04.05.2019 and no cogent reason has been shown by the defence counsel for allowing the application for further cross-examination.

9. In view of the aforesaid facts and circumstances, this Court does not find any ground to interfere in the impugned order dated 04.09.2019 (Annexure P-1). Consequently, the present petition is hereby dismissed. The interim order which has been passed vide order dated 17.09.2019 stands vacated.

04.02.2025

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |