

CNR No: PBKPB10006902014

CIS No: CHI/229/2014

In the Court of Ms. Shruti,
Judicial Magistrate - Ist Class, Sultanpur Lodhi

CNR No. PBKPB10010182013

Case No. CHI/1993/2013



Presented on : 13-12-2013

Registered on : 13-12-2013

Application decided on : 29.01.2020

File pending for : 06.02.2020

State of Punjab Vs Jagjit Singh

Present:- Smt. Reena Rani Ld. APP for the State.

Accused on bail with counsel Sh. SS Momi Adv.,

(Application under Section 311 Cr.P.C.)

1. Arguments heard on application moved by Ld. Counsel for the accused Jagjit Singh. It is submitted that the complainant appeared into the witness box as PW2 and his cross-examination has been deferred on 18.09.2019 due to his inability to produce certain documents and thereafter he did not appeared on various dates and ultimately due to the oversight of the counsel, he could not be examined despite due opportunity. It is further submitted that serious prejudice will be caused to the applicant, in case the complainant is not properly examined and he is being denied the fair trial due to the inaction of the counsel. Lastly, a prayer was made that the present application in hand be allowed and the above-said witness may kindly be recalled in the present case in the interest of justice.

2. On the other hand, Learned APP for the State, filed reply to the application by taking preliminary objections that the application of the accused/applicant is not maintainable, that the accused/applicant has got no locus-standi to file the present application, that the accused/applicant

has got no cause of action to file the application and that no prejudice is going to be caused to the accused/applicant. On merits it is submitted that the complainant appeared into witness box as PW2 and he was cross-examined to some extent and then at the request of Ld. Counsel for the accused, further cross-examination of PW2 was deferred. Thereafter, the case was called several times for cross-examination of PW2, but neither the Ld. Defence counsel appeared to cross-examine the PW2 as there was nothing with the learned defence counsel which he could put to the PW2 in his further cross-examination, nor accused Jagjit Singh appeared in the Court and ultimately remaining cross-examination of PW2 was closed by this Hon'ble Court after affording sufficient opportunities to the defence to complete remaining cross-examination of PW2. Lastly, prayer was made that the application be dismissed.

3. After hearing rival contentions of both the parties, I have minutely analyzed the record available on the file.

4. It is defined under Section 311 Cr.P.C. that:

“Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

5. Perusal of file reveals that examination-in-chief of PW2 i.e. Amrik Singh deferred on 26.03.2019 for want of identification of accused. Thereafter, on 10.05.2019 PW2 Amrik Singh was partly cross-examined;

thereafter on 18.09.2019 cross-examination of PW2 Amrik Singh was deferred for production of documents and cross-examination of PW2 of Amrik Singh was treated as opportunity given nill on 20.12.2019. Keeping in view the facts mentioned in the application, the present application in hand stands allowed and PW2 Amrik Singh is summoned under Section 311 Cr.P.C.. Further, Ld. Defence counsel is directed to complete the cross-examination of PW2 Amrik Singh on that very day and further no opportunity will be given to the accused for cross-examination of PW2 Amrik Singh. **Ahlmad is directed to issue process against prosecution witnesses i.e. PW2 Amrik Singh.** Application stands disposed off accordingly. Now to come up on 06.02.2020 for cross-examination of PW2 Amrik Singh.

Pronounced:-

Date of Order: 29.01.2020

*Gurwinder Singh**

(Shruti)

Judicial Magistrate - Ist Class,

UID NO . PB0564