

CHI.1236.13 State Vs. Darshan Singh

Present: Sh. MS Sidhu, APP for the State.
Accused on bail with counsel Sh. PL Chaudhary, Advocate.
Sh. Mandeep Singh, Advocate for the complainant.

ORDER:-

1. This order of mine shall dispose off an application u/s 311 Cr.P.C. filed by the accused for further cross-examination of Jaspal Singh PW1. It is pleaded by the applicant that the present case was registered against the accused on the basis of application filed by Harbhajan Kaur in which she had alleged that the accused has changed the revenue record and transferred the land in the name of brother of husband of Harbhajan Kaur. She is stated to have died during the pendency of the trial. A petition was filed in the Hon'ble High Court on the basis of compromise. Jaspal Singh had appeared in the court and suffered a statement admitting the compromise. At the time of cross-examination of Jaspal Singh he could not be cross-examined on the factum of compromise and the compromise was not put to him. Now some new facts are brought on record. Therefore, further cross-examination is necessary for the fair and proper adjudication of the matter in controversy. Therefore, the witness is liable to be recalled for further cross-examination. Hence, the application.

2. The prosecution filed reply denying the averments made in the application. It is pleaded that the cross-examination of Jaspal Singh has been completed and it is prayed that the application be dismissed.

3. I have heard the learned APP for the State and the learned counsel for the applicant and I have gone through the case file minutely.

4. The witness PW1 Jaspal Singh was examined-in-chief on 26.08.2014. Thereafter, he was cross-examined on 05.04.2016. The present application has been filed by the accused on 20.09.2019. The application is filed on the ground that some alleged compromise has been effected between the accused and Jaspal Singh. It is also the case of the applicant that on the basis of said compromise the accused filed a quashing petition u/s 482 Cr.P.C. Thereafter, the parties appeared before the trial Court on the direction of the Hon'ble High Court and Jaspal Singh suffered a statement admitting

the compromise to be voluntary. The accused wants to recall the witness for further cross-examination in order to put the factum of the compromise to the witness in the cross-examination. I am of the considered opinion that the application filed by the accused is not maintainable. The accused is charged u/s 409/420/465/467/468/471 IPC. The offences are not compoundable. Further the petition for quashing on the basis of compromise has been dismissed by the Hon'ble High Court. The witness cannot be recalled for the cross-examination on the basis of the pleadings raised by the applicant. If some alleged compromise had taken place and if some statement has been recorded then the accused can prove the same in defence. The accused can also rely upon the same at the relevant stage of the trial. Once the statement of Jaspal Singh has already been recorded on oath pertaining to the alleged compromise in the proceeding u/s 482 Cr.P.C. and once Jaspal Singh has been cross-examined on behalf of the accused, there is no ground to recall the witness to put the factum of the compromise to the witness during cross-examination. The accused has relied upon case law cited as '**Sukhwinderpal Singh Vs. Satpal Singh**' CRM-M 44032 of 2015 decided on 02.08.2018 by the Hon'ble High Court in which the wide powers of the trial Court under Section 311 Cr.P.C. are discussed. I am of the considered opinion that the facts of the present case are different from the facts of the case law relied upon by the accused. The application is not maintainable and same is accordingly dismissed without expressing any opinion on the merits of the case. The application is disposed off.

Date of Order: 09.10.2019
Suraj Bansal*

(Gagandeep Singh Garg),
Sub-Divisional Judicial Magistrate,
Jaitu/ UID No.PB0295