



128

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

CRM-M-34050-2025

Date of Decision:04.07.2025

Jatinder Singh

...Petitioner

vs.

State of Punjab and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. R.S.Bains, Senior Advocate (through VC) with
Mr. Mohan Singh Chauhan, Advocate, for the petitioner.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 528 of BNSS with a prayer to quash the order dated 03.06.2025 (Annexure P-5) passed by the Court of Judicial Magistrate 1st Class, Ludhiana, whereby the application dated 02.11.2023 (Annexure P-3) filed by the petitioner to recall PW-4 HC Mahinder Singh for re-examination was dismissed in case FIR No.124 dated 15.09.2020 under Sections 341 and 506 of IPC, registered at Police Station Sadar Ludhiana, District Police Commissionerate Ludhiana.

2. Learned Senior counsel for the petitioner vehemently argued that the petitioner/complainant had lodged one FIR No.124 dated 15.09.2020 under Sections 341, 506 of IPC at Police Station Sadar Ludhiana against Manjinder Singh, his real brother. During the course of trial, the statement of PW-4 HC Mahinder Singh was recorded and he was cross-examined in the absence of the petitioner/complainant. During the cross-examination, the said witness had wrongly stated that respondent No.2/accused was cultivating his half share of land, which had fallen to his share and respondent No.2 was also in possession of half of the land. Learned Senior counsel submits that in fact, the witness had

misrepresented and tried to mislead the Court by making a false averment. Now, the application was filed for recalling him for re-examination for putting some more questions to him with regard to possession and cultivation over the land in question. Learned Senior counsel further submitted that in fact, the re-examination of PW-4 Mahinder Singh was required as his deposition had caused serious prejudice to the case of the prosecution.

3. I have heard learned Senior counsel for the petitioner and perused the record carefully.

4. In the present case, the statement of PW-4 HC Mahinder Singh was recorded on 31.08.2023 with regard to certain police proceedings, which were witnessed by him. During his cross-examination, he has stated certain facts, on cross-examination by defence counsel. Even, he had chosen to answer certain question, while he was examined by a defence counsel and the Courts can never interfere in the process of cross-examination and the witnesses are at the freedom to answer the question in any manner, they like. Still further, even if PW-4 HC Mahinder Singh had answered a particular question in a particular manner, the prosecution was at liberty to lead independent evidence with regard to the cultivation and possession over the land in question.

5. At this stage, in the considered opinion of the Court, the re-examination of PW-4 HC Mahinder Singh cannot be ordered as it would clearly amount to filling up of lacunae in the prosecution case, which is not permitted in law and is beyond the scope and object of the provisions of Section 311 Cr.P.C.

6. The petition moved by the petitioner is misconceived and is liable to be dismissed.

7. Dismissed.

04.07.2025
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(N.S.SHEKHAWAT)
JUDGE

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