
(2026) 08 P&H CK 0464
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-42878-2026

Dev Dutt

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Indian Penal Code, 1860 — Section 302, 34
Code of Criminal Procedure, 1973 — Section 313

Citation : (2026) 08 P&H CK 0464

Hon'ble Judges : Manisha Batra, J

Bench : Single Bench

Advocate : Mr. Sauhard S. Hooda, Advocate for the petitioner; Mr. Ashok Kumar Khubbar, Addl. A.G., Haryana; Mr. Surinder Dagar, Advocate for respondent No.2-complainant.

Final Decision : Petition dismissed; impugned order affirmed

Judgement

Aggrieved by the order dated 28.04.2026 passed by the Court of learned Sessions Judge, Faridabad in case arising out of FIR No. 317 dated 26.06.2019 registered under Sections 302 read with Section 34 of IPC at Police Station Ballabgarh Sadar, District Faridabad, whereby the application filed by respondent No.2-complainant for recall of a witness was allowed, the present petition has been filed by the petitioner, who is one of the accused in the aforementioned case and is facing trial for the commission of the offence of murder of the deceased-Parveen.

2. After the conclusion of the evidence produced by the prosecution and at the stage of recording the statement of the petitioner under Section 313 Cr.P.C., an application was filed by respondent No.2-complainant through the learned Public Prosecutor, submitting that in the post-mortem examination report of deceased Parveen, instead of his name, the name of complainant was typed and on the basis of post mortem examination report, the same name was mentioned in the FSL report. For the purpose of clarifying that in fact the post-mortem

examination of the deceased Parveen had been conducted by the concerned doctors, the respondent No.2 sought recall of PW-13 Manish Dayal.

3. As already mentioned, the said application was allowed by the learned Sessions Judge by observing that, for the purpose of clarifying that the post-mortem examination report pertained to the deceased Parveen, recall of PW-13 Manish Dayal was required.

4. Feeling aggrieved by the aforesaid order, the present petition has been filed.

5. It is argued by learned counsel for the petitioner that PW-13 Manish Dayal had been examined way back on 14.09.2021. In his sworn deposition, he had deposed that he had conducted the post-mortem examination of the deceased Parveen and had proved the report prepared by him. The application for recalling the said witness had been moved after a gap of six years only with an intent to delay the conclusion of the trial, though there was no necessity for recalling him. It is, therefore, argued that the impugned order is liable to be set aside.

6. Notice of motion.

7. Learned State counsel has accepted notice on behalf of respondent No.1-State. At this stage, memo of appearance on behalf of respondent No.2-complainant has been filed.

8. Learned State counsel assisted by learned counsel for respondent No.2 has submitted that there is no illegality or infirmity in the impugned order and it is, therefore, argued that the present petition does not deserve to be allowed.

9. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

10. The respondent No.2 sought recall of PW-13 Manish Dayal for the purpose of clarifying that the post-mortem examination report pertained to the deceased Parveen and not to respondent No.2-complainant, whose name had inadvertently been mentioned in the report. It is further submitted that this inadvertent mistake has far-reaching consequences since the same incorrect name has also been mentioned in the FSL report. As such, for the purpose of clarifying and correcting the name of the deceased, recall of PW-13 Manish Dayal was necessary. The learned trial Court, after considering all the facts and circumstances of the case, rightly allowed the application filed by respondent No.2. This Court finds no reason to interfere with the impugned order. Accordingly, the same is affirmed. However, in order to avoid any further delay in the trial, the learned trial Court is directed to ensure the presence of PW-13 Manish Dayal by making the best possible efforts and to ensure that his further examination is completed on the very day of his appearance. For the said purpose, no unnecessary adjournment shall be granted.

11. A copy of this order be sent to the concerned trial Court.