

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &  
HARYANA AT CHANDIGARH.**

CRM No. M-30574 of 2009 (O&M)  
Date of decision: 30.10.2009

Ajaib Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. P.K. Dwiwedi, Advocate, for the petitioner.

**Rajan Gupta, J (oral).**

This is a petition under Section 482 Cr.P.C. impugning order, Annexure P-3, passed by Judicial Magistrate Ist Class, Abohar, wherein application of the prosecution for recalling and re-examining a prosecution witness, namely, Ajaib Singh, has been rejected.

Learned counsel for the petitioner has argued that the judgment of the apex court in *U.T. of Dadra & Haveli & Anr. vs. Fatehsinh Mohansinh Chauhan (S.C.), 2006 (4) RCR (Criminal) 113*, has not been considered in correct perspective. He, therefore, prays that the matter be remitted to the same court for deciding the same afresh with liberty to the prosecution to refer to the law on the scope of Section 311 Cr.P.C.

Notice of motion.

On the asking of the court, Mr. Shailesh Gupta, DAG, Punjab accepts notice on behalf of State of Punjab. He does not oppose

the prayer for remand of the case to the same court for fresh consideration.

Under the circumstances, it is ordered that order dated 23<sup>rd</sup> September, 2009, passed by Judicial Magistrate Ist Class, Abohar, is hereby set-aside. The matter is remitted to the same court for decision afresh. The parties will be at liberty to cite the judgments relied upon by them before the trial court. It has been noticed by this court in the impugned judgment that while referring to the judgments cited before it, title of the cases have not been mentioned. This omission by the trial court is not appreciated by this court. The Presiding Officer is advised to remain careful in this regard in future.

Disposed of.

**(RAJAN GUPTA)**  
**JUDGE**

October 30, 2009  
'rajpal'