ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

CRL.MISC. NO: 53/2013

MUHAMMAD HANIF VERSUS ADDITIONAL SESSIONS JUDGE-WEST, ISLAMABAD ETC

Serial No. of order of proceeding.	Date or order of proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
1	2	3

28.2.2014 Raja Aamir Shahzad, Advocate for petitioner,
Mr. Kazim Jan & Rana Abid Advocates for respondents 2 to 4,
Malik Zahoor Akhtar Awan, learned Standing Counsel,
Muhammad Akram, SI, Investigation Officer,
Mr.Yasin Ali Khan, SI, P.S Aabpara.

ORDER
MUHAMMAD ANWAR KHAN KASI, CJ:

Petitioner [Muhammad Hanif], complainant of the main murder case assails order dated 21.11.2013 passed by learned Trial Court/ASJ-West, Islamabad whereby his application Under Section 540 Cr.PC for summoning of two witnesses [Qaiser Mehmood ASI & Munsha Hussain SI] was dismissed by observing that petitioner failed to show as to how the examination of said persons would have material bearing on the case.

2. Learned counsel, inter alia, submits that the learned Trial court failed to consider the fact that statement of both the witnesses are material and is not an attempt to fill in the lacuna. He pleaded that statement of these two witnesses are essential for just decision of the case.

3. Learned Standing counsel, assisted by learned counsel for respondents 2 to 4, resisted the petition by stating that the challan was submitted on 12.3.2011 and now when the Trial is about to conclude , complainant preferred these applications to linger on the case while the accused are anguishing in Jail. He added that the learned ASJ, seized with the trial, has passed the impugned order by taking into account the comprehensive circumstances of the case.

4. Heard & record perused.

5. The sole purpose of judicial proceedings in criminal cases is to find out truth and to arrive at a correct conclusion and to check that no innocent person be

punished. If it appears to the Court that evidence is necessary for just decision of the case, the Trial Court is vested with the jurisdiction to summon any witness for examination or re-examination.

6. In the present case, Qaiser Mehmood SI, one of the proposed witnesses issued docket for identical transmission of criminal empties to the FSL and also recorded statement of accused Adeel Masih under Section 164 Cr.PC, whereas the second proposed witness Munsha SI added Section 397/302 PPC in the report Under Section 173 Cr.PC, therefore, it would be essential to call them for decision of the case.

7. In view of above, the Revision petition is accepted, impugned order dated 21.11.2013 passed by learned ASJ/Trial Court is set aside and, application Under Section 540 Cr.PC, filed by the petitioner, is allowed.

(CHIEF JUSTICE)

Saeed Akhtar
28.2.2014