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Supreme Court rejects witness recall plea from Maruti workers

By ET Bureau | Aug 25, 2016, 04.29 AM IST

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NEW DELHI: The [Supreme Court](#) on Wednesday refused to countenance a plea by [Maruti workers](#) — facing trial for a 2012 incident at its [Manesar](#) unit in which an HR manager was burnt alive — to put some management witnesses on the stand again.

Instead a bench, comprising Justices Dipak Misra and UU Lalit, asked the trial court to go ahead with the murder case, noting that it must balance interests of both accused and victim to prevent miscarriage of justice. But every procedural lapse or every interdict that has been acceded to and not objected at the appropriate stage would not get the trial unfair. "Treating it to be unfair would amount to an undesirable state of pink of perfection in procedure. The foundation for recall, evincible from the applications filed, does not even remotely make out a case that such recalling is necessary for just decision of the case or to arrive at the truth." Some 148 workers are on trial for the murder of HR manager Avnish Dev in the workers' violence which had rocked the factory in 2012.



The state government had appealed against this decision to the top court through Additional Solicitor General Tushar Mehta.

They had initially asked the trial court to recall some of the management witnesses so that they could be cross-examined by the defence again, but had been turned down on Dec 16, 2015.

They had claimed they would not make out a fresh case for the defence but would plug some lacunae in the cross-examination and cited their lawyer's terminal illness as a ground for this. However, the Punjab and [Haryana High Court](#) had on March 9, 2016, taken a lenient view and permitted them to do so, opining that recalling was not for the purpose of setting up a new case or make the witnesses turn hostile but only to have a proper defence. It had observed that sometimes trial courts tend to reject the defence of the accused over lack of proper suggestions by the defence to prosecution witnesses.

The state government had appealed against this decision to the top court through Additional Solicitor General Tushar Mehta. The workers had argued for allowing their plea in the interest of justice and a fair trial, through senior advocate RS Cheema. They had argued that the management witnesses had changed their stand on the weapons allegedly used by the workers during the unrest. Initially, they had claimed that the workers were equipped with arms and lathis but had later changed it to door beams, shockers and other such things which were easily within such a factory to make the prosecution case more credible, Cheema contended. He had demanded recall of four of the 12 management witnesses.

At the outset, the court had expressed skepticism over their recall plea, but heard both sides and reserved orders on the issue. Today, the top court formally rejected their plea. Mehta on the other hand contended that this was yet another attempt to delay trial in the case. The prosecution evidence had closed and the statements of the accused had been recorded. The defence had also led evidence by examining witnesses, he argued. The concept of "fair trial", he argued, could not be stretched too far to engulf situations which were not envisaged.

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