



2025.PHHC:162246



CRM-M-39616-2025

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

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Raj Veer Singh

...Petitioner

V/s

State of Haryana and another

...Respondents

Date of decision: 20.11.2025

Date of Uploading : 20.11.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.K. Gupta, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

Mr. G.C. Shahpuri, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of the BNSS, 2023 seeking quashing of the order dated 29.05.2025 (Annexure P-5) passed by learned Sessions Judge, Palwal whereby the application under Section 311 Cr.P.C. filed by the prosecution/complainant for recalling the complainant/PW-6 Chhail Mohan Gautam, in Sessions Case No.SC/354/2023 dated 08.08.2023 arising out of FIR No.329 dated 15.10.2022 registered under Sections 323,325,307, 452, 506 IPC at Police Station Sadar Palwal has been allowed.

2. Learned counsel for the petitioner has iterated that the PW-6/complainant has already been examined-in-chief. Learned counsel has further iterated that the attempt of the prosecution to recall him at the fag end of the trial, after examination of nine witnesses, is nothing but an effort to fill up the material lacunae which is impermissible in law. According to

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learned counsel, the complainant is himself a practicing lawyer, who lodged the complaint after fully understanding the contents and deposed in Court with complete awareness of the facts. Hence, seeking his recall merely to clarify the father's name of the accused demonstrates that the application was filed with an oblique motive. Furthermore, the prosecution has failed to show how the proposed clarification is essential for the just decision of the case. Learned counsel has further submitted that the trial Court has allowed the application in hand in a mechanical manner without recording any satisfaction which shows non-application of mind. Learned counsel has asserted that the recall of PW-6 at such a belated stage, when the trial is almost complete, causes grave prejudice to the petitioner. Furthermore, it is pertinent to note that the impugned order is non-speaking as the concluding paragraph of the order clearly indicates that the Court below has allowed the application without properly considering the facts and circumstances of the case. On the basis of aforesaid submissions, the impugned order deserves to be set-aside.

3. Learned State counsel as well as the learned counsel appearing for the complainant-respondent No.2 has opposed the instant petition by arguing that Section 311 Cr.P.C. give the Court very wide and unfettered powers to summon or recall any witness at any stage of the trial if their evidence appears essential for arriving at a just decision of the case. According to learned counsel, the recall of PW-6 is strictly for limited purpose in order to clarify the father's name of the accused which inadvertently has been wrongly typed due to typographical or clerical oversight. Furthermore, the prosecution does not seek to alter the



substantive evidence or to introduce any new facts. Learned counsel have further submitted that the Court below has examined the application in hand on merits and passed a reasoned order. On the strength of these submissions, the dismissal of the instant petition is prayed for.

4. I have heard learned counsel for the rival parties and perused the paper-book.

5. It would be apposite to refer herein to a judgment passed by this Court in case titled as ***Karamjit Singh vs. State of Punjab and another: 2024 NCPHHC 24178***; relevant whereof reads as under:-

“8.4 As an epilogue to the above rumination, the following principles emerge:

(I) The broad gamut for exercising power by a criminal trial Court under Section 311 of Cr.P.C. are as follows:

(i) The prime factor for considering a plea under Section 311 of Cr.,P.C. is as to whether such evidence “appears to be essential to the just decision of the case.”

(ii) Section 311 of Cr.P.C. can be invoked by a criminal trial Court even when cross-examination of a witness has earlier been foreclosed by a Court order. Such exercise of power by the Court cannot be construed as the concerned Court recalling/reviewing its own order.

(iii) Section 311 of Cr.P.C. empowers a criminal trial Court to even allow further examination/cross-examination of a witness at instance of the prosecution/accused.

(iv) A criminal Court is well within, its judicial discretion, to summon any person as a witness at any stage of proceedings/trial etc. till such Court is seized of the matter.

(v) A criminal trial Court may exercise power under Section 311 of Cr.P.C. on an application made by a party to lis or on its own volition.

(vi) Successive application(s) for summoning same witness for examination/re-examination is not debarred but such a plea deserves to be dealt with exercising a higher degree of circumspection.

(II) No straight jacket formulae can be enumerated regarding mode, manner and extent of exercise of power under Section 311 of Cr.P.C by a criminal trial Court as every case has its own unique facts/circumstances.



It is neither possible nor pragmatic to lay down any such exhaustive guide-lines as every case is sui generis in terms of factual conspectus.

(III) Needless to say that exercise of power under Section 311 of Cr.P.C. by a criminal trial Court should be undertaken by according cogent and lucid reasons, in accordance with basic principles of our criminal jurisprudence, for such exercise of its power.”

6. The respondent No.2 – complainant has lodged FIR in question against the petitioner on the basis of written complaint dated 14.10.2022. Upon registration of the FIR, the matter was duly investigated and the police submitted the challan before the concerned Court. The prosecution cited 14 witnesses in the final report under Section 173(2) Cr.P.C. Charges were, thereafter, framed and the petitioner pleaded not guilty. Out of the 14 prosecution witnesses, 01 witness has been given up. After completion of examination of 09 witnesses, the complainant moved two applications i.e. one under Section 216 Cr.P.C. seeking alteration of charge by adding an additional offence under Section 379-B IPC and secondly the application in hand under Section 311 Cr.P.C. seeking recall of PW-6/complainant for further examination-in-chief only for clarification regarding the father's name of the accused. Upon issuance of notice, the accused-petitioner filed replies opposing both the applications. However, the learned Court below allowed both the applications. The petitioner has now challenged the order only to the extent that of recalling of PW-6/complainant.

7. The factual conspectus of the matter in hand reflects that the complainant-respondent No.2 has moved the application in hand before the Court below seeking recall of PW-6/complainant for further examination-in-chief only for clarification regarding the father's name of the accused. The Court below, after considering the submissions of the rival parties, recorded

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a finding that such clarification would not prejudice the accused and may assist the Court in proper appreciation of the evidence. It is well established principle of law that, in the interest of justice, valuable evidence that may have been omitted due to an oversight or mistake by either party can be brought on record at any stage of the proceedings, provided it is essential for the just decision of the case. The contention that the prosecution intends to fill lacunae is without merit. The evidence sought does not change the substratum of the case of prosecution and does not reopen the entire examination-in-chief. Furthermore, the identity of the accused is a material issue in every criminal trial. The accused-petitioner has the right to cross-examine PW-6 on the limited aspect for which recall has been allowed. The Court below has restricted the scope of recall thereby ensuring that the accused suffers no prejudice. In the considered opinion of this Court, the impugned order cannot be termed arbitrary, perverse or contrary to law. Moreover, the paramount consideration while deciding an application under Section 311 of Cr.P.C. is whether the evidence sought to be adduced is necessary for a just and fair decision of the case and to meet the ends of justice, irrespective of the stage at which the application is filed.

8. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below. In the considered opinion of this Court, the trial Court has appropriately dealt with the application in question by allowing the same.

9. In view of the prevenient ratiocination, it is directed as follows:



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- (i) The impugned order dated 29.05.2025 passed by the Sessions Judge, Palwal does not call for any interference. The petition in hand is accordingly dismissed.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Court below shall proceed further, in accordance with law, without being influenced therefrom.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 20, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No