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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010375082026

+ **CRL.M.C. 5942/2026 and CRL.M.A. 24779/2026**

BHARAT CHUGH

.....Petitioner

Through: Mr. Pritish Sabharwal, Mr. Sandeep Mishra, Mr. Surbhit Nandan, Mr. Ayush Vardhan & Mr. Ayush Sharma, Adv.

versus

**M C AGRAWAL HUF, THROUGH ITS KARTA SH P K
AGRAWAL**

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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17.08.2026

1. The petition is for the following reliefs:

- "a. Allow the present Petition and set aside/quash the impugned Order dated 01.08.2026 passed by the Ld. Judicial Magistrate First Class (NI Act)-04, South District, Saket Courts, New Delhi in Complaint Case No. CC/NI ACT/4958/2020 titled "M.C. Agrawal HUF v. Bharat Chugh", to the extent whereby the Ld. Trial Court declined to permit the;*
- b. Direct the Ld. Trial Court to permit the Petitioner to lead and conclude his defence evidence in terms of the detailed List of Defence Witnesses filed by him, including the examination of the witnesses and production/proving of the documents mentioned therein, in accordance with law and pursuant to the order dated 03.07.2026 passed by this Hon'ble Court in Crl. M.C. No. 2853/2026;*
- c. Direct the Ld. Trial Court not to close the defence evidence of the Petitioner until the witnesses permitted by this Hon'ble Court are*



examined and the Petitioner is afforded a meaningful and effective opportunity to complete his defence evidence;”

2. The petitioner seeks to challenge the impugned order dated 01.08.2026 passed by the Judicial Magistrate First Class, Saket District Court, New Delhi in complaint case bearing No. CC/NI ACT/ 49958/2020, whereby, his application filed under Section 315 of the Cr. P. C. was only partially allowed *qua* witness nos. 1 and 2; however, the same was rejected *qua* witness nos. 3 to 10.

3. Learned counsel appearing for the petitioner submits that the Trial Court has prejudged the nature of the evidence and has rendered the finding that the evidence of such witnesses is irrelevant; such a recourse is impermissible in law.

4. Before summoning any witness, the Court must be satisfied that the proposed evidence is relevant to the issue involved. The evidence that is sought to be adduced must have a direct nexus with the matter in issue and must be essential for a just decision of the case; a mere assertion of necessity without disclosing the relevancy of the same does not entitle the accused to an order of summoning.

5. In ***State (NCT of Delhi) v. Shiv Kumar Yadav***¹ the court opined on similar ground and stated-

*“11. It is further well settled that fairness of trial has to be seen not only from the point of view of the accused, but also from the point of view of the victim and the society. In the name of fair trial, the system cannot be held to ransom. The accused is entitled to be represented by a counsel of his choice, to be provided all relevant documents, to cross-examine the prosecution witnesses and to lead evidence in his defence. The object of provision for recall is to reserve the power with the court to prevent any injustice in the conduct of the trial at any stage. **The power available with***

¹ (2016) 2 SCC 402



the court to prevent injustice has to be exercised only if the court, for valid reasons, feels that injustice is caused to a party. Such a finding, with reasons, must be specifically recorded by the court before the power is exercised. It is not possible to lay down precise situations when such power can be exercised. The legislature in its wisdom has left the power undefined. Thus, the scope of the power has to be considered from case to case. The guidance for the purpose is available in several decisions relied upon by the parties. It will be sufficient to refer to only some of the decisions for the principles laid down which are relevant for this case.”

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6. Further, in **Rajaram Prasad Yadav v. State of Bihar**² emphasised on similar lines, stating-

“14. A conspicuous reading of Section 311 CrPC would show that widest of the powers have been invested with the courts when it comes to the question of summoning a witness or to recall or re-examine any witness already examined. A reading of the provision shows that the expression 'any' has been used as a prefix to 'court', 'inquiry', 'trial', 'other proceeding', 'person as a witness', 'person in attendance though not summoned as a witness', and 'person already examined'. By using the said expression 'any' as a prefix to the various expressions mentioned above, it is ultimately stated that all that was required to be satisfied by the court was only in relation to such evidence that appears to the court to be essential for the just decision of the case. Section 138 of the Evidence Act, prescribed the order of examination of a witness in the court. The order of re-examination is also prescribed calling for such a witness so desired for such re-examination. Therefore, a reading of Section 311 CrPC and Section 138 of the Evidence Act, insofar as it comes to the question of a criminal trial, the order of re-examination at the desire of any person under Section 138, will have to necessarily be in consonance with the a prescription contained in Section 311 CrPC. It is, therefore, imperative that the invocation of Section 311 CrPC and its application in a particular case can be ordered by the court, only by bearing in mind the object and purport of the said provision, namely, for achieving a just decision of the case as noted by us earlier. The power vested under the said provision is made available to any court at any stage in any inquiry or trial or other proceeding initiated under the Code for the purpose of summoning any person as a witness or for examining any person in attendance, even though not summoned as witness or to recall or re-examine any person already examined. Insofar as recalling and re-examination of any person already examined is concerned, the court must necessarily consider and

² (2013) 14 SCC 461



ensure that such recall and re-examination of any person, appears in the view of the court to be essential for the just decision of the case. Therefore, the paramount requirement is just decision and for that purpose the essentiality of a person to be recalled and re-examined has to be ascertained. To put it differently, while such a widest power is invested with the court, it is needless to state that exercise of such power should be made judicially and also with extreme care and caution.”

7. The Supreme Court in ***T. Nagappa v. Y.R. Muralidhar***³ held that the process of allowing the production of a witness should not be allowed to unnecessarily protract the trial or summoning of those witnesses who would not be at all relevant

“9. What should be the nature of evidence is not a matter which should be left only to the discretion of the court. It is the accused who knows how to prove his defence. It is true that the court being the master of the proceedings must determine as to whether the application filed by the accused in terms of sub-section (2) of Section 243 of the Code is bona fide or not or whether thereby he intends to bring on record a relevant material. But ordinarily an accused should be allowed to approach the court for obtaining its assistance with regard to summoning of witnesses, etc. If permitted to do so, steps therefor, however, must be taken within a limited time. There cannot be any doubt whatsoever that the accused should not be allowed to unnecessarily protract the trial or summon witnesses whose evidence would not be at all relevant.”

8. However, it is to be noted that earlier the petitioner had approached this Court when the right to lead evidence was closed. The Court, as a last indulgence and with the consent of the parties, directed the Trial Court to fix the date for adducing/ production of the defence evidence within a fixed period of time. The order dated 03.07.2026 is extracted as under:

“1. The matter was earlier referred for mediation; however, the same remained unsuccessful.

2. The Court was of the prima facie opinion that, as a last indulgence, one opportunity can be extended to the petitioner to adduce the defence evidence. This opinion was formed keeping in mind the fact that the

³ (2008) 5SCC 633



applicant was in judicial custody with respect to some other matter, therefore, the defence evidence could not be produced timely.

3. The parties during the course of hearing agreed that the petitioner can be extended one further opportunity to adduce the defence evidence. 4. In view of the aforesaid, this petition stands disposed of with the following directions:

(i) Let the concerned Court to fix the date for adducing/production of the defence evidence within a period of fifteen days from 08.07.2026.

(ii) On the date given by the concerned Court, the petitioner if fails to adduce the defence evidence, his right shall be forfeited.

(iii) Once the defence evidence is adduced, let the needful be done by the trial Court in accordance with law within a period of three months therefrom.”

9. It appears that the liberty granted by the petitioner is sought to be misused. As the right of an accused to lead defence evidence is a valuable right, however, such a right is not unqualified. The petitioner, without any relevance, has proposed to call multiple witnesses. The Trial Court in the impugned order had dealt with the relevance of each of the witnesses and has given the conclusion that there is no relevancy for which the witnesses are required to be called before the Court. The relevant paragraphs of the impugned order are extracted as under:

“Decision

i. The application does not state any particular ground of relevancy upon which the witnesses are required to be called before the court.

ii. It is not a claim of the complainant that any shares were transferred or pledged by the above witnesses to the accused in the present transaction. As such, the complainant has not made any claim or averment about the involvement of the above individuals in the present transaction and the accused has also not been able to show how their testimonies shall be relevant to the facts of the instant complaint. Even assuming that these individuals were outside India, that circumstance does not by itself disprove the transaction pleaded by the complainant.

Accordingly, witness at serial no. 3, 4 and 5 are not allowed.

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Decision

i. The accused had earlier moved an application u/s 91 Cr.P.C for summoning records from SMC Global Services Ltd., which was allowed by this court vide order dated 12.04.2023, and subsequently these documents



were produced before the court, tendered in evidence and the complainant was cross-examined upon the same as well.

ii. The application does not state any particular ground of relevancy upon which the witnesses are required to be called before the court for some documents which are already on record.

iii. It is not a claim of the complainant that any shares were transferred or pledged by the above witnesses to the accused in the present transaction. As such, the complainant has not made any claim or averment about the involvement of the above individuals in the present transaction and the accused has also been unable to show how their testimonies shall be relevant to the present complaint. A mere assertion that a witness is necessary for a complete defence does not dispense with the requirement of establishing the relevance, admissibility and necessity of such evidence.

Accordingly, witness at serial no. 6 and 7 are not allowed.

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Decision

i. The application does not state any particular ground of relevancy upon which the witnesses are required to be called before the court.

ii. The Demat statement of complainant HUF is already on record as Ex. CW1/D-13(Colly).

iii. With regard to the demat statement of accused, no material has been placed on record to indicate that the said statement is unavailable to the accused or that he has made any effort to obtain the same directly from the Depository. The application does not disclose any circumstance necessitating the personal attendance of the proposed witness. The said witness is not expected to depose regarding any disputed transaction between the parties but is sought to be summoned merely for producing the account statement, which the accused is otherwise competent to obtain from his own Depository. In the absence of any explanation demonstrating the necessity of summoning the said witness, permitting such examination would unnecessarily consume judicial time and delay the proceedings.

Accordingly, witness at serial no. 8 is not allowed.

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Decision

i. The application does not state any particular ground of relevancy upon which the witnesses are required to be called before the court.

ii. The accused had earlier moved an application u/s 91 Cr.P.C. for summoning of relevant circulars and schemes however, the same was dismissed by this court vide order dated 10.12.2023 on the ground that the documents sought by the accused were public documents and accused may very well depose and tender them in evidence themselves by filing certified/printed copies.

iii. The accused has not shown how a reply by Manager, SEBI or his opinion on a complaint made to the EOW is relevant to the facts of the present case.



iv. Lastly, the accused may himself place on record the relevant law which may include any notification/circular to prove his defence that the transaction between the parties is illegal or prohibited by law. Statutory provisions, regulations, notifications and circulars are matters of law or public documents capable of being produced by the accused without necessitating the examination of an official witness.

Accordingly, witness at serial no. 9 is not allowed.

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Decision

i. The application does not state any particular ground of relevancy upon which the witnesses are required to be called before the court.

ii. The accused has not mentioned any particular person who will bring the said agreement before the court and how is that document relevant to the facts of the present case. The accused has neither disclosed the custody of the document nor explained the factual issue sought to be proved by it. Mere production of an unidentified agreement, without laying any factual foundation cannot justify summoning a witness.

Accordingly, witness at serial no. 10 is not allowed."

10. The scope of interference by this Court in the exercise of its inherent jurisdiction under Section 482 CrPC is narrow, and is available only where the findings are shown to be perverse, based on no material, or vitiated by a jurisdictional or legal error. The Supreme Court in **Arun Shukla v. State of U.P and Ors.**⁴ Explicitly defined the scope of the High Court regarding the inherent powers of the court under Section 482 CrPC. The court held-

2. It is true that under Section 482 of the Code, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions "abuse of the process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court, and the alleged abuse of the process of law or the ends of justice could only be secured in accordance with law, including procedural law and not otherwise. Further, inherent powers are in the nature of extraordinary powers to be used sparingly for achieving the object mentioned in Section 482 of the Code in cases where there is no express provision empowering the High Court to achieve the said object.

⁴ (1999) 6 SCC 146



11. It is clear that while exercising the inherent jurisdiction under Section 482 CrPC, the Court does not sit in appeal and is not required to re-appreciate the material on record as if the Court is rehearing the matter afresh. Such power is to be exercised sparingly and only to prevent abuse of the process of court or to secure the ends of justice.

12. Therein, no such infirmity is demonstrated in the present case. The Court, thus, at this stage, does not find any justification to interfere with the impugned order passed by the trial Court.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 17, 2026

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