

2025:PHHC:100513



123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7725-2025
Date of Decision:31.07.2025

Vikram Singh @ Vicky @ Vikramjeet Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. P.P.S. Duggal, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Mr. Chander Shekhar Sharma, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J. (ORAL)

1. The petitioner has approached this Court by way of filing present petition challenging the impugned order dated 24.01.2025 (Annexure P-7) vide which an application filed under Section 311 Cr.PC for recalling of the witnesses, has been dismissed.

2. As per facts of the case, FIR in the present case was lodged on the statement of the complainant Dara Singh wherein he had stated that on 24.06.2023 at about 06:30 AM when he was going on towards Hamid Saido Ke along with Baljinder Singh, saw a dead body of a woman lying there. He stated that it appears that some unknown woman had been killed. On registration of the FIR investigation commenced. During investigation, the petitioner has been prosecuted in FIR No.84 dated 24.06.2023 under Sections 302/201 of IPC, 1860, registered at Police Station Sadar Jalalabad, District Fazilka. On

completion of the investigation, challan was presented and on framing of the charges, trial commenced. During trial, prosecution has examined two witnesses namely Chhinderpal Singh (husband of the deceased) and Dara Singh as PW4 and PW6. However, after their examination an application under Section 311 Cr.PC was filed by the applicants Chhinderpal Singh and Dara Singh on the ground that though they had been examined before the Court but at that time they did not give their statements with their free will. On hearing both the sides the learned trial Court declined the same vide impugned order dated 24.01.2025 (Annexure P-7). Aggrieved by the same, the petitioner, who is the accused in the FIR, had assailed the same before this Court.

3. It has been vehemently contended by the learned counsel for the petitioner that the petitioner has been falsely and frivolously prosecuted in the present FIR. It is submitted that both the witnesses i.e. Chhinderpal Singh (PW4) and Dara Singh (PW6) had filed the application under Section 311 Cr.PC for their re-examination as their earlier deposition was not with their free will but the learned trial Court has illegally declined the same. He submits that provisions of Section 311 Cr.PC are liberal in nature and the same can be invoked at any stage before the pronouncement of the order, if re-examination of the witnesses is essential for the just decision of the case. He further submits that both the witnesses have specifically submitted that their earlier deposition was not with their free will and hence, they should be allowed to be re-examined. He relies upon the judgments ***Mannan Sk. and others Vs. State of West Bengal and another (SC): 2014(4) RCR (Criminal) 617, Rampal Gautam and others Vs. The State by Mahadevapura Police Station, Mahadevapura, Bengaluru and another, SLP (Criminal) No(s.)7968 of 2016 and a compendium of other judgments.*** It has been submitted by the learned counsel for the petitioner that the impugned order has been passed in

contravention to the law laid down by the Hon'ble Courts. He, thus, submits that the impugned being unsustainable in the eyes of law deserves to be set aside.

4. Learned counsel for respondent No.2 has submitted that he has no objection, if the petition is allowed.

5. Learned State counsel, however, has vehemently opposed the submissions made by the counsel for the petitioner. He submits that petitioner before this Court is the accused in the FIR, who is facing the trial for the charges of the murder of the wife of Chhinderpal Singh i.e. PW4. He submits that both these witnesses had been examined earlier as PW4 and PW6 at length and were cross-examined by the petitioner. It is submitted that after their examination now the parties have had entered into a compromise and hence, the present petition had been filed in a clandestine manner. He submits that the parties have secretly compromised the matter and thus, the present application has been filed. He submits that the provision of Section 311 Cr.PC cannot be invoked in such circumstances as the application filed do not meet the essential ingredients for invoking the power of this Court under Section 311 Cr.PC. He, thus, submits that neither this petition is maintainable nor there is any merit in the same and hence, the same deserves to be dismissed.

6. This Court has heard learned counsel for the parties and perused the record with his able assistance.

7. After hearing learned counsel for the parties and perusing the available record, it is deciphered that the petitioner before this Court is facing the charge for the offence under Section 302/201 of IPC for the murder of the wife of Chhinderpal Singh. During trial, he was examined by the prosecution

as PW4 and the complainant Dara Singh as PW6, on 06.03.2024 and 04.07.2025, respectively. However, they filed the application under Section 311 Cr.PC on the ground that after their cross-examination on 10.12.2024, some respectable persons and relatives gathered in the house of the Vikram Singh @ Vicky (petitioner) regarding the compromise. It is hereinafter they came to know that Vikram Singh (petitioner) did not commit the murder of Bharawan Bai (deceased). The compromise was effected on 10.12.2024. It is on the basis of the compromise, the petition had been filed under Section 311 Cr.PC to resolve the controversy involved. In all, there is no dispute regarding the law cited by the learned counsel for the petitioner. However, the same are distinguishable in the facts and circumstances of the case. It is trite law that the provision of Section 311 Cr.PC cannot be invoked to fill up the lacunas in the case. The appreciation of the provision of Section 311 Cr.PC is relevant and which is as follow:-

311. Power to summon material witness, or examine person present.

- Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

[311-A. Power of Magistrate to order person to give specimen signatures or handwriting. [Inserted by Act of 2005, Section 27 (w.e.f. 23-6-2006).]

- If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall

be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this Section unless the person has at some time been arrested in connection with such investigation or proceeding.]

8. It is apposite to appreciate that the application under Section 311 Cr.PC filed by the complainant Dara Singh and witness Chdinderpal Singh, which has been declined vide impugned order dated 24.01.2025. However, the present petition has been filed by the accused and not by the applicants, who filed the application under Section 311 Cr.PC before the trial Court. Filing of this petition by the accused itself reveals that there was an understanding between the accused and the complainant and to wriggle out of the trial he is facing for the murder of the wife of Chhinderpal Singh i.e. PW4. The Court cannot ignore the fact that the offence alleged against the petitioner is heinous in nature and the provisions of Section 311 Cr.PC cannot be invoked for a clandestine purpose. There is no gainsaying that as per law settled, this Court has ample power to invoke its jurisdiction, however, the same cannot be invoked to fill up the lacuna.

9. From the bare reading of the provision of Section 311 Cr.P.C., it is apparent that the Court has ample power to re-examine or recall any such person whose evidence appears to be essential for the just decision of the case. Reliance in this regard can be placed in case of **Swapan Kumar Chatterjee Vs. Central Bureau of Investigation 2019(14) SCC 328**, wherein it has been held as under:-

“12. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and

it should be exercised with great caution and circumspection. The court has vide power under this Section to even recall witnesses for re-examination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law.”

10. However, in view of the law settled, it is apparent that the Hon'ble Supreme Court has laid down that the power under Section 311 Cr.P.C (Section 348 of BNSS) should be invoked only to meet the ends of justice. The power should be exercised for strong and valid reasons and it should be exercised with great caution and circumspection. The judgments relied upon by the petitioner are distinguishable.

11. Weighing the facts and circumstances of the case on the anvil of the law settled, there is no infirmity in the impugned order dated 24.01.2025 passed by the learned Judge, Special Court, Fazilka and this Court neither find this petition maintainable at the behest of the petitioner nor find any merits in the same. Accordingly, the present petition is hereby stands dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

31.07.2025

Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No