



232

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

**CRR-330-2021 (O&M)
Date of decision: 21.05.2025**

BALJINDER KAUR

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Karanjit Singh, Advocate
for the petitioner.

Mr. Gurpartap S. Bhullar, Asst. A.G., Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed challenging the order dated 15.02.2021 passed by the learned Additional Sessions Judge, Kapurthala, whereby an application which was moved by the prosecution under Section 311 read with Section 91 Cr.P.C. was dismissed.

2. Learned counsel for the petitioner submitted that it is a case where an FIR was lodged in the year 2016 on the basis of the statement made by the petitioner on 12.06.2016 by stating that the accused of the present case murdered her niece after committing rape upon her and thereafter, caused disappearance of the dead body of the victim girl. He further submitted that at the time of prosecution evidence, the prosecution did not cite the witnesses for the purpose of proving the Date of Birth of the victim girl and the victim girl



was in fact a minor girl regarding which although later on some photostat copies of her Date of Birth were filed but the same were not proved because no official from the Department of Birth and Death and other officials from any other relevant department were produced for the purpose of proving the documents so as to ascertain the Date of Birth of the victim because according to the petitioner, the victim girl was minor and in this way, later on even after the closure of the prosecution evidence, the prosecution moved the aforesaid application under Section 311 read with Section 91 Cr.P.C. for the purpose of summoning the concerned Clerk of the Registrar of Birth and Death of the relevant place so as to prove the Date of Birth of the victim but the aforesaid application has been dismissed on the ground that it is with delay and the same has been filed to fill up the lacuna. He further submitted that in fact although there was a delay on the part of the prosecution but the fact remains that the aforesaid age of the victim, who was raped and murdered, goes to the root of the matter and even if the prosecution evidence was closed for any reason whatsoever, there was no embargo for filing such an application even at a later stage once the witness was to prove the Date of Birth of the victim, who had died and no prejudice could have been caused in this regard.

3. Learned counsel for the petitioner further submitted that the aforesaid impugned order is of the year 2021 and even otherwise also, the passing of the final order has been stayed by this Court vide order dated 07.11.2024 and staying of the final order rather goes to the detriment of the petitioner, who is the complainant. He has prayed that a direction may be issued to the learned trial Court to grant at least one effective opportunity for



summoning the aforesaid witness, who is the official of the Birth and Death Department for the purpose of proving the document pertaining to the ascertainment of the Date of Birth of the victim girl.

4. On the other hand, Mr. Gurpartap S. Bhullar, Asst. A.G., Punjab submitted that the application under Section 311 read with Section 91 Cr.P.C. was rightly filed by the prosecution and no prejudice will be caused to the State in case the present revision petition is allowed and the aforesaid impugned order is set aside.

5. I have heard the learned counsel for the parties.

6. It is a case where the allegations against the accused were pertaining to rape and murder of a victim, who is stated to be the niece of the present petitioner and thereafter, disappearance of her body as well. The offence as alleged is extremely serious in nature. An application was moved by the prosecution under Section 311 read with Section 91 Cr.P.C. for the purpose of proving the Date of Birth of the victim girl. As per the aforesaid impugned order, although some documents were produced which were marked but the same could not be proved by the concerned official of the department. There can be any reason for the same which may include negligence on the part of the prosecution but the most relevant aspect of the present case would be proving of the document pertaining to the Date of Birth of the victim girl, who was allegedly raped, murdered and her body eliminated, as the same is certainly a document which goes to the root of the matter and rather the provisions of POCSO Act were also invoked and therefore, the mere fact that the prosecution evidence was closed and thereafter, an application was moved by the



prosecution did not create any embargo upon the learned trial Judge to have dismissed the aforesaid application for summoning and for proving the document since it goes to the root of the matter.

7. In view of the aforesaid facts and circumstances, the present revision petition is allowed. The impugned order dated 15.02.2021 passed by the learned Additional Sessions Judge, Kapurthala is hereby set aside. The interim order dated 07.11.2024 stands vacated. The learned trial Court shall now grant at least one effective opportunity to the prosecution to call the witness, who is stated to be an official of the Birth and Death Department or any other relevant department for the purpose of proving any document pertaining to the Date of Birth of the victim girl.

8. A copy of this order be sent to the concerned learned trial Court.

21.05.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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