

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

2025:PHHC:032372



(134)

CRM-M-12654-2025

Date of Decision: 06.03.2025

Sanjay Kant

--Petitioner

Versus

M/s Sun Shine Solar Solutions & others

--Respondents

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present:- Mr. Sandeep Chhabra, Advocate for petitioner.

MANJARI NEHRU KAUL.J (Oral)

The petitioner has impugned the order dated 18.01.2025 (Annexure P-1), passed by the learned Trial Court, whereby the application under Section 311 Cr.P.C moved by the complainant (respondent no.1), has been allowed, permitting the complainant to place on record certain documents including WhatsApp chat conversations from the years 2018 to 2021 and the settlement deed dated 25.08.2021.

Learned counsel for the petitioner has assailed the impugned order primarily on the following grounds:-

- (i) That the application under Section 311 Cr.P.C has been moved at a belated stage, after the closure of the evidence of the complainant, which amounts to filling up lacunae in the case of the prosecution.
- (ii) The document sought to be introduced were already in possession of the complainant at the time of filing the complaint, and there is no justification for their belated production.

(iii) That the learned Trial Court has erred in allowing a witness to introduce document after the completion of his cross-examination, thereby causing prejudice to the petitioner.

Per contra, learned Trial Court has allowed the application vide impugned order primarily on the ground that placing the said documents on record would not cause any prejudice to the accused and would assist the court in the proper adjudication of the matter.

I have heard learned counsel for the petitioner and examined the material on record.

Section 311 Cr.P.C/348 BNSS, empowers the court to summon any person as a witness or recall and re-examine any person already examined, if the court considers that such evidence is essential to the just decision of the case. The provision is couched in broad terms to give the court ample discretion to ensure that no crucial evidence is left out in the process of adjudication. The Section reads as follows:-

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

The scope of Section 311 Cr.P.C/348 BNSS has been elaborated in several land mark judgements of the Hon'ble Supreme Court. The fundamental consideration for the exercise of this power is whether the proposed evidence is necessary for the just adjudication of the case. The aim

of every court is to discover the truth therefore, this power under Section 311 Cr.P.C/348 BNSS must be exercised whenever the interests of justice so demands.

In the present case, the learned Trial Court, while passing the impugned order, has reasoned that the introduction of the documents in question-WhatsApp chat conversations and a settlement deed-would not cause any injustice to the petitioner and would aid the court in arriving at a conclusion.

It is significant to note that the trial is still under way and the accused-petitioner would have the opportunity to cross-examine the complainant with respect to the additional documents. If the production of a document or recall of a witness is necessary for a fair trial, mere delay or technical objections cannot be a ground to decline an application under Section 311 Cr.P.C.

The contention of the learned counsel for the petitioner that the documents were available with the complainant at the time of filing the complaint and should have been introduced earlier, does not outweigh the broader principle that a fair trial must be the paramount consideration. The adversarial nature of the trial does not preclude the court from ensuring that all relevant evidence is brought on record for the just adjudication of the case.

Moreover, the argument that allowing the complainant to introduce documents after closure of cross-examination would cause prejudice to the petitioner is misplaced. The petitioner will have the full opportunity to cross-examine the complainant on these documents, thereby safeguarding his right to a fair trial.

Given the fact that the trial has not yet concluded, this Court does not find any manifest illegality or perversity in the impugned order. The discretion exercised by the learned Trial Court in allowing the complainant to introduce additional evidence under Section 311 Cr.P.C/348 BNSS is in consonance with the settled principles of law.

In view of the foregoing discussion, present petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

06.03.2025

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No