



CRM-M-14574-2023 (O&M)

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

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CRM-28708-2025 in/&

CRM-M-14574-2023 (O&M)

Date of decision: 30.07.2025

Darshan Singh

....Petitioner

V/s

Raman Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ashok Kumar Khunger, Advocate for the petitioner.

Mr. H.S. Sehgal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)**CRM-28708-2025**

Application is allowed as prayed for. The documents are taken on record as Annexures P-7 and P-8 respectively.

CRM-M-14574-2023

1. The present petition has been filed seeking quashing of the order dated 13.03.2023 passed by learned Judicial Magistrate Ist Class, Abohar whereby the application filed by the respondent (herein) - complainant, under Section 311 of Cr.P.C. of 1973 was allowed and respondent - complainant was permitted to place on record and prove the memo issued by the Punjab National Bank dated 04.07.2017, pertaining to the presentation of the cheque in question.

2. Learned counsel for the petitioner has iterated that the complainant-respondent has already concluded his evidence before the trial Court subsequent to which the statement of the petitioner under Section 313 of Cr.P.C. was duly recorded. Thereafter, the petitioner also closed his



defence evidence on 24.02.2023 and the matter was listed for final arguments. On 01.03.2023, part arguments were heard and the case was adjourned to 03.03.2023. Learned counsel has submitted that at this belated stage and solely with a view to fill up the lacunae in the prosecution case, the complainant-respondent has moved an application under Section 311 of Cr.P.C. seeking permission to place and prove on record the memo issued by the Punjab National Bank dated 04.07.2017. Learned counsel asserts that though the petitioner filed a detailed reply opposing the said application but the Court below vide impugned order allowed the same. Learned counsel has further drawn the attention of the Court to the observations made in the impugned order wherein it was noted that no suggestion had been put to the complainant during cross-examination regarding the non-production of the Punjab National Bank memo. It is strenuously argued by the learned counsel that such an observation is legally untenable as the accused cannot be expected to cross-examine a witness with respect to a document which had neither been proved nor exhibited on the record at the relevant stage. According to learned counsel, the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It is further contended by learned counsel that the impugned order is cryptic, sketchy, non-reasoned, devoid of merit and thus, deserves to be set-aside. It has been further iterated that the additional evidence sought to be brought on record by virtue of Section 311 Cr.P.C., are not necessary for just and proper adjudication of the case and, therefore, the same is irrelevant. Further, no ground is made out by the applicant (before the trial Court) to bring forward the evidence by virtue of Section 311 of Cr.P.C. at this belated stage. 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. Therefore, on this ground alone, the impugned order deserves to be set-aside.

3. *Per contra*, learned counsel appearing for the complainant-respondent has opposed the instant petition by arguing that the impugned order does not suffer from any illegality. According to learned counsel, the aforesaid memo was not in the possession of the respondent – complainant at the time of filing of the complaint and therefore, the complaint was instituted without annexing this document. It is further averred that the said document is essential for the just and proper adjudication of the present complaint. Thus, dismissal of the instant petition is entreated 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 guidelines 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 – complainant instituted a complaint titled as ***Raman Kumar vs. Darshan Singh*** under Section 138 of the Negotiable Instruments Act against the petitioner alleging dishonour of cheque purportedly issued by the petitioner in discharge of a legally enforceable debt. Based on the preliminary evidence of the respondent-complainant, the petitioner was summoned by the trial Court and subsequently appeared, whereupon he was granted bail and thereafter he was regularly appearing before the Court. Thereafter, the respondent-complainant had closed his evidence on 14.10.2022, whereinafter the matter was adjourned for recording the statement of the petitioner under Section 313 Cr.P.C. on 21.10.2022. The statement of the petitioner was subsequently recorded on 28.10.2022 and the case was thereafter listed for defence evidence and arguments. On 24.02.2023, the petitioner closed his defence evidence and the case was fixed for final arguments on 01.03.2023.



During the course of trial proceedings, an application under Section 311 of the Code was filed on behalf of the complainant-respondent seeking permission to place on record and to prove the Punjab National bank memo dated 04.07.2017. Upon issuance of notice, the petitioner-accused duly appeared and opposed the application by specifically highlighting that the respondent had already closed his evidence and that the application had been filed at the fag end of the proceedings merely to fill up lacunae. Denying all the claims made in the application, the accused-petitioner (herein) had requested the dismissal of the present application. However, the trial Court, after properly appreciating the facts and settled principles of law, vide impugned order dated 13.03.2023, allowed the application of the applicant (respondent herein) to place and prove the said memo by asserting that the instant complainant has been instituted under Section 138 of the Negotiable Instruments Act, which primarily rests upon the documentary evidence. Furthermore, the Court below observed that the memo issued by the Punjab National Bank appears to be an essential document for the proper adjudication of the case as in its absence it would not be possible to ascertain the precise grounds on which the cheque in question was dishonoured. Furthermore, no prejudice is likely to be caused to the accused-petitioner (herein) if the complainant is permitted to place the said memo in question, as the accused-petitioner should be afforded ample opportunity to cross-examine the witness who would produce the said documents before the Court below. Moreover, costs of Rs.1,000/- was also imposed upon the applicant (respondent herein) to compensate the opposite party.

7. The factual conspectus of the matter in hand reveals that the complainant-respondent has filed the application in question before the trial



Court to place and prove on record the memo dated 04.07.2017 issued by the Punjab National Bank. It appears that the complainant has been instituted under Section 138 of the Negotiable Instruments Act, a provision that predominately relies upon documentary evidence to establish the commission of the alleged offence. The gravamen of such proceedings is on the dishonor of cheque purportedly issued in discharge of a legally enforceable debt or liability. The memo sought to be place and proved on record by way of additional evidence are deemed necessary for the effective and proper adjudication of the matter in hand. 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. Given the nature of the offence, the evidentiary foundation of the complaint is primarily documentary and the adjudication thereof necessitates a meticulous examination of the documents forming the substratum of the case. Accordingly, the production and scrutiny of such documentary evidence are vital to the just and proper adjudication of the matter. The evidence, mainly documentary, holds significant importance in the present case, as it is crucial for the complete and fair adjudication of the matter and bears significantly on the issue in dispute. Furthermore, no prejudice would be caused to the accused-petitioner, as he shall be afforded an opportunity to scrutinize the authenticity and veracity of the memo in question through cross-examination or by presenting his own defence. 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:

(i) The impugned order dated 13.03.2023 passed by the Judicial Magistrate Ist Class, Abohar does not call for any interference.

Ordered accordingly.

(ii) The trial Court shall make an earnest endeavour to conclude the trial expeditiously, preferably within 04 months from the date of receipt/production of certificate copy of this order.

10. 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.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 30, 2025
Ajay

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