



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

CRM-M No.13893 of 2025
Date of decision: 17th March, 2025

CCL “R”

... Petitioner

Versus

State of Haryana & another

... Respondents

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Jattan, Advocate for
Mr. Partap Singh, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The present petition has been preferred under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 assailing the order dated 04.02.2025 (Annexure P-1) passed by the Court of learned Additional Sessions Judge, Karnal, whereby the application filed by the prosecution under Section 311 Cr.P.C. for recalling PW-3, Sunil Kumar, has been allowed.

2. Learned counsel for the petitioner contends that the impugned order has been passed in violation of the settled principles of criminal jurisprudence, thereby causing serious prejudice to the petitioner, who is being tried separately as a juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2015. It is submitted that the application moved by the prosecution under Section 311 Cr.P.C. is

nothing more than an attempt to fill lacunae in its case, which is impermissible in law.

3. Learned counsel further submits that PW-3 Sunil Kumar had already been examined-in-chief and thereafter, extensively cross-examined during the trial, and the failure to play the CCTV footage during his deposition at that stage cannot now be rectified by recalling him for further examination. It is argued that the prosecution had ample opportunity to present its case in entirety, and the present application is merely an effort to introduce material that was well within its knowledge from the very inception of the trial. The recall of PW-3 Sunil Kumar, who is the registered owner of the vehicle allegedly used in the commission of the offence, is neither necessary nor bona fide, particularly in the light of the fact that other material witnesses, namely PW-10 Ramesh, PW-12 Amit Kumar, and PW-15 Sohan Lal have already failed to support the case of the prosecution regarding the identification of the vehicle seen in the CCTV footage.

4. It is still further contended that the petitioner, being a juvenile, is entitled to a speedy and fair trial, and the belated attempts by the prosecution to recall witnesses at an advance stage of the proceedings should not be permitted, as it amounts to affording the prosecution an opportunity to strengthen its case at the expense of procedural fairness. Learned counsel submits that the impugned order has been passed in a mechanical manner, without recording any cogent reasons demonstrating the necessity of recall of PW-3 Sunil Kumar for

the just decision of the case. Thus, it is prayed that the impugned order be set aside.

5. I have heard learned counsel appearing on behalf of the petitioner and perused the relevant material on record.

6. A perusal of the impugned order reveals that the learned trial Court has rendered a detailed and well reasoned decision. It has been correctly observed that the case of the prosecution is based entirely on circumstantial evidence, and in such cases, every link in the chain of circumstances assumes significance. One such crucial link is the identification of the vehicle allegedly used in the commission of the offence. PW-3, Sunil Kumar, being the registered owner of the said vehicle, is the most material witness to speak on this aspect, particularly in relation to the CCTV footage relied upon by the prosecution.

7. The learned trial Court has also duly considered the objection by the petitioner regarding prosecutorial negligence. However, it has rightly held that mere technical or procedural lapses in playing the CCTV footage at the relevant stage should not result in prejudice to the complainant or lead to the exclusion of material evidence that is otherwise crucial for a just determination of the case.

8. Furthermore, it has been noted that the vehicle in question was released on supurdari and that a Power of Attorney concerning its ownership was not put to PW-3 Sunil Kumar during his initial examination. In such circumstances, the recall of PW-3 Sunil Kumar is

found to be necessary to establish an essential link in the chain of circumstances forming the foundation of the case of the prosecution.

9. This Court finds no perversity or manifest illegality in the reasoning adopted by the learned trial Court. The exercise of discretion under Section 311 Cr.P.C. has been undertaken judiciously and in furtherance of the principle that a fair trial is not only the right of the accused but also a fundamental requirement to arrive at the truth. The impugned order does not reflect any error warranting interference by this Court.

10. In view of the forgoing discussion, the petition stands dismissed in limine. 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

March 17, 2025
rps

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