

2025:PHHC:042187



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

CRM M-16793 of 2025

Date of Decision: 27.03.2025

M/s Singla Pesticides and others	...Petitioners
Versus	
M/s Adfert Technologies Pvt. Ltd.	... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Rhytham Bajaj, Advocate, for the petitioners.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present petition under Section 528 of the B.N.S.S., 2023 with a prayer to quash the impugned order dated 04.03.2025 (Annexure P-3) passed by the Court of Judicial Magistrate 1st Class, Ludhiana, in a complaint case No. COMA-29212 dated 24.10.2019 titled as “**M/s Adfert Technologies Pvt. Ltd. Vs. M/s Singla Pesticides**”, whereby, the application under Section 311 Cr.P.C. filed by the petitioner for recalling the witness, i.e., CWI Tejinderpal Singh for further cross-examination has been ordered to be dismissed.

2. Learned counsel for the petitioners contends that they had purchased pesticides and other materials from the

respondent/complainant on credit basis vide different bills and had agreed to make the payment to the respondent. As per the account books managed by the complainant, an amount of Rs.3,59,000/- was outstanding against the petitioners. Ultimately, the cheque issued by the petitioners for a sum of Rs. 2 lacs was dishonored and the respondent had filed a complaint (Annexure P-1) against the petitioners. During the course of trial, the respondent/complainant appeared as CWI and closed his evidence on 28.10.2024. Thereafter, the petitioners were examined under Section 313 Cr.P.C. on 13.11.2024 and the case was adjourned for defence evidence. However, certain important and material facts came to the knowledge of the petitioners/accused and consequently an application was moved before the trial Court for recalling the witness, i.e., CWI Tejinderpal Singh for further cross-examination. Even, many complaints against the fertilizers supplied by the respondent/complainant came into light and these were also required to be put to the respondent. However, the trial Court had wrongly dismissed the application by passing a non-speaking order.

3. I have heard the learned counsel for the petitioners and perused the record carefully.

4. Section 348 of the B.N.S.S. (old Section 311 of Cr.P.C.) provides for powers of the Court to summon the material witness or examine the person present. It clearly lays down that any Court can

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. However, the law is well settled that such power has to be resorted to only with the object of finding out the truth or obtaining the proper proof of such facts, which lead to a just and correct decision of the case, this being the primary duty of the criminal court. Further, it is equally settled that such power cannot be utilized for filling up a *lacunae* in the prosecution case. However, in the present case, the petitioner had clearly failed to make out any such case before this Court. The respondent in the present case had stepped into the witness box as CW1 on 28.10.2024 and was cross-examined at length. Thereafter, the petitioners appeared and made their statements under Section 313 Cr.P.C. on 13.11.2024. However, when the case was listed for defence evidence and arguments, the present application was moved only with the sole intention of delaying the trial. No doubt, the stage of trial was immaterial, for moving such an application, but the petitioner also failed to disclose such facts in his application, which would warrant the recalling of CWI Tejinderpal Singh for cross-examination. Even, from the order passed by the trial Court, it is apparent that the petitioner was intentionally trying to delay the trial before the trial Court. Apart from that, this Court has held repeatedly that the lack of competence of the previous counsel cannot serve as a ground to reopen the examination of a witness.

Thus, finding no merits, the present petition is ordered to be dismissed.

27.03.2025	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No