

2025:PHHC:048768



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
123+124

Date of decision: 05.04.2025

1. CRM-M-18951-2025

Rampal
Versus
Rahul
....Petitioner
....Respondent

2. CRM-M-18957-2025

Rampal
Versus
Rahul
....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner in both the petitions.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.18951 and 18957 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-18951-2025.
2. Prayer in both these petitions filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for setting-aside the judgment(s) dated 04.03.2025 (Annexure P-7), passed in Criminal Revision No.7 of 2025 and Criminal Revision No.6 of 2025, respectively, passed by learned Additional Sessions Judge, Hisar and the impugned order dated 02.01.2025 (Annexure P-5), passed by learned

2025:PHHC:048768



Judicial Magistrate Ist Class, Hansi, in case NACT-84 and NACT-85 of 04.03.2020, respectively, titled as “*Rahul vs Ram Pal*”, vide which the application for recalling the respondent/complainant for cross-examination, has been dismissed.

3. Learned counsel for the petitioner, inter alia, contends that the petitioner has been falsely implicated as he had never issued any cheque (including the present cheque, in question), rather he had obtained a loan of Rs.50,000/- from one Sanjeev Nanda. The petitioner has issued two blank cheques bearing No.020321 and 020322, by putting the signatures as security cheques. The petitioner has repaid the amount borrowed from Sanjeev Nanda and the petitioner has been falsely implicated in two cases on the basis of the aforementioned cheques, which were misused by the complainant at the behest of Sanjeev Nanda. Further the petitioner had executed an affidavit dated 10.09.2019, which was duly registered with the Notary Public signed by Sanjeev Nanda as well as Rahul (respondent/complainant). After the complainant/respondent had led the evidence, the petitioner examined DW-1 to DW-4. The petitioner moved an application seeking recalling of the complainant for the purpose of his recross-examination regarding his signatures as a witness in the affidavit 'Mark A', however, the learned Judicial Magistrate Ist Class, Hansi has dismissed the application filed by the petitioner under Section 311 Cr.P.C., on an unfounded grounds and has recorded a wrong finding that the application has been filed by the petitioner in order to delay the trial and

2025:PHHC:048768



to fill up the lacuna. Further the learned Additional Sessions Judge, Hisar also dismissed the revision petition filed by the petitioner. Both the Courts below have erred in rejecting the application filed by the petitioner under Section 311 Cr.P.C. and it is a trite law that the power under Section 311 Cr.P.C., can be exercised at any stage. The learned Courts below have laid much stress on the fact that the case is now fixed at the fag end and further no finding has been recorded as to how the petitioner would be trying to fill up the lacuna or it is a case of genuine oversight. In support of his contention, learned counsel for the petitioner has relied upon the judgment ***“Mannan Shaikh and others vs State of West Bengal and another”***, 2014(13) SCC 59 and submits that in the aforementioned case, a witness was recalled for examination after 22 years of incident and as such, the impugned order passed by both the Courts below are not sustainable in the eyes of law and in the interest of justice and fair play, the petitioner is entitled to recall and reexamine the respondent/complainant.

4. Having heard learned counsel for the petitioner and after perusal of the record, this Court finds no force in the arguments advanced by learned counsel for the petitioner.

5. A perusal of the record indicates that the petitioner has moved an application under Section 311 Cr.P.C. with a sole purpose to further cross-examine the complainant/respondent so as to confront him with affidavit 'Mark A' which allegedly bears the signatures of the complainant as attesting witness when the petitioner had borrowed

2025:PHHC:048768



money from Sanjeev Nanda. The learned Courts below have dealt with the issue in detail and on multiple reasons, the application filed by the petitioner was dismissed. First of all, the original affidavit has not been produced on record but rather a photocopy is available on record as 'Mark A' and the learned counsel for the petitioner has already subjected the complainant to lengthy cross-examination by putting a specific suggestion that the complainant/respondent has misused the cheque given to Sanjeev Nanda and further suggestion was put that the petitioner has no dealing with the complainant/respondent, however, the complainant/respondent has denied all these suggestions. Lastly, the petitioner has summoned Sanjeev Nanda and confronted him with the contents of the affidavit 'Mark A'. The aforementioned Sanjeev Nanda, who was summoned at the instance of the petitioner, has denied that 'Mark A' bears his signatures or even denied that the petitioner has given him any cheque as detailed in 'Mark A'.

6. On the basis of the aforementioned reasons, both the Courts below have refused to invoke the powers under Section 311 Cr.P.C. Once Sanjeev Nanda has already been summoned and he has been confronted with the contents of the affidavit 'Mark A' and recalling of the complainant/respondent for the same purpose would not serve any purpose rather it would result in delaying the trial. The trial of the case is at the fag end and the petitioner has already led his defence evidence.

2025:PHHC:048768



7. In view of the above, the petitioner has failed to point out any illegality or perversity in the impugned order(s). Accordingly, both the present petitions stand dismissed being devoid of any merit.
8. Pending miscellaneous application(s), if any, also stand(s) disposed of.
9. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

05.04.2025
yakub

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