

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

**CRM-M-33323-2018 (O&M)**

**Reserved on:- 22.5.2025**

**Date of Decision: 10.6.2025**

Mandeep Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

***Argued by:*** Mr. P.S.Ahluwalia, Advocate  
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Akshat Dalal, Advocate  
for respondent No. 2.

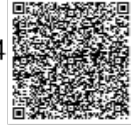
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**KIRTI SINGH, J.**

1. The instant petition has been filed against the impugned order dated 17.7.2018 passed by the learned trial Court concerned, in case FIR No. 33 dated 17.4.2014 under Sections 304-B and 201 of the IPC, registered at Police Station Mehtiana, District Hoshiarpur, whereby an application preferred by the complainant under Section 311 Cr.P.C. seeking summoning of two additional witnesses, namely Rakesh Kumar and Harpreet Kumar alias Vicky has been allowed.

**Brief facts of the case**

2. The present FIR was registered under Sections 304-B and 201 IPC on the basis of a statement made by the complainant-respondent No.2, who is the father of deceased alleging that his daughter had suffered maltreatment and harassment at the hands of her in-laws including the present petitioner-Mandeep Kaur due to demands of dowry, which ultimately

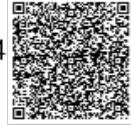


led to her death. The accused persons, who are named in the FIR included Gurdev Kaur (mother-in-law), Gurmej Rai (father-in-law), Sukhwinder Rai (Jeth), Lovedeep Rai (brother-in-law) and Mandeep Kaur (jethani), who is the petitioner in the instant petition.

3. Pursuant to the registration of the present FIR, the trial commenced and the entire prosecution evidence was duly led before the learned trial Court. After the closure of prosecution evidence, the statements of all the accused including the present petitioner, were recorded under Section 313 Cr.P.C. The accused led eight defence witnesses into the witness box. It was at that advance stage of the trial, when both the prosecution and defence had presented their primary evidence, the complainant-respondent No. 2 moved the application under Section 311 Cr.P.C. seeking the summoning of two additional witnesses. Vide the impugned order dated 17.7.2018, the learned Additional Sessions Judge, Hoshiarpur, after considering the rival contentions of both the parties, allowed the application (supra). Hence, the present petition.

**Submissions of the learned counsel for the petitioner**

4. Learned counsel for the petitioner has argued that the impugned order is unsustainable in the eyes of law given the fact that two witnesses, namely Rakesh Kumar and Harpreet Kumar alias Vicky, who are now sought to be summoned under Section 311 Cr.P.C. were never cited in the list of witnesses by the prosecution. It has also been argued that the investigating agency did not even record their statements under Section 161 Cr.P.C. and introducing them in the trial as witnesses, at this stage, is a blatant violation of the principles of fair trial as contemplated under Article 21 of the Constitution of India. The learned counsel further submits that from 26.9.2017 to 2.5.2018 eight defence witnesses were examined and at this

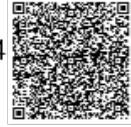


stage, on 23.5.2018, the instant application under Section 311 Cr.P.C. was filed seeking summoning of two additional prosecution witnesses. At this belated stage, the instant application has been filed to fill up the lacuna in the prosecution case, which would also cause prejudice to the defence. Furthermore, the impugned order allowing the instant application tantamounts to a grave misuse of the process of law. Moreover, the same has been passed without considering the stage of trial and without considering the vague reasons put-forth in the application in question. Therefore, it is prayed that the impugned order be quashed and set aside.

**Submissions of the learned counsel for the complainant-respondent No. 2**

5. Learned counsel for the complainant-respondent No. 2 submits that the impugned order passed by the learned trial Court, is a well-reasoned order and is fully in consonance with the principles governing the administration of criminal justice. He further submits that Section 311 Cr.P.C. confers expansive powers upon the Court, enabling it to summon any person as a witness, examine any person already examined, or recall and re-examine any such person at any stage of the inquiry, trial or other proceedings. The singular and over-riding objective of the said power is to ensure that a just decision of the case is reached. The petitioner's arguments, which were primarily centered on the application being filed at a 'belated stage' and being an attempt to 'fill up the lacuna' in the prosecution case, have been both thoroughly considered and rightly dismissed by the trial Court concerned.

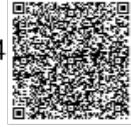
6. He further submits that since it is clearly stated in the application of the complainant that on 17.4.2014, approximately at 11.00 A.M., both of them had visited the matrimonial house of deceased, which is the very day the alleged incident had occurred. During their said visit,



deceased allegedly conveyed them the maltreatment and harassment suffered by her at the hands of the accused due to demands of dowry. Therefore, the presence of the said persons at such a critical juncture and their alleged interaction with the deceased makes their testimony directly relevant and potentially pivotal to understand the sequence of events leading to the death of deceased.

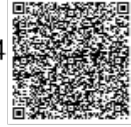
7. With regard to the arguments of 'belated stage' it has been argued that the trial Court while acknowledging the advance stage of the trial, has rightly held that belated filing of application under Section 311 Cr.P.C. is only an attending circumstance and cannot become the sole determinative factor, which perfectly aligns with the established legal principle that the power under Section 311 Cr.P.C. can be exercised at any stage of the trial even after the defence has adduced its evidence, provided the Court deems it essential for the just decision of the case.

8. Furthermore, the learned counsel submits that the arguments of the petitioner that Rakesh Kumar and Harpreet Kumar alias Vicky were never cited in the list of witnesses by the prosecution or that no statement of either of these two witnesses under Section 161 Cr.P.C., was recorded, is without legal merit. The summoning of the witnesses (supra) is essential to clarify the conflicting narratives presented by both the prosecution as well as by the defence regarding the crucial events on the day of occurrence. In support of his arguments, learned counsel has placed reliance on (i) ***K.P. K.P.Tamilmaran versus State*** reported in (SC) 2025 INSC 576, (ii) ***U.T. of Dadra and Nagar Haveli versus Fatehsinh Mohansinh Chauhan*** reported in (SC) 2006(7) 529, (iii) ***Mohanlal Shamji Soni versus Union of India and another*** reported in (SC) 1991(1) SCR 712 and (iv) ***Shailendra Kumar versus State of Bihar*** reported in (SC) 2002 AIR SC 270.



**Submissions of the learned State counsel**

9. Learned State counsel while placing reliance upon the short reply filed by way of affidavit of the Deputy Superintendent of Police, Sub Division Rural, District Hoshiaprur, submits that during trial the learned APP for the State submitted an application under Section 311 Cr.P.C. for summoning the additional witnesses namely Rakesh Kumar and Harpreet Kumar alias Vicky as both of them had reached the matrimonial home of deceased and the deceased had disclosed to them about the maltreatment and harassment given by the accused to her on account of dowry. The learned State counsel further submits that during investigation, the statements of the above witnesses were recorded. However, since inadvertently their names could not be cited in the list of witnesses, therefore, they could not have been examined during the evidence of the prosecution. She further submits that the above witnesses are material witnesses and their examination is of utmost importance for the just decision of the case. It has been further argued that no prejudice would be caused to the defence, as the defence also would have an opportunity to cross-examine the said witnesses and to produce further defence evidence, if any, in rebuttal to their testimonies. In support of her arguments, learned State counsel has placed reliance on (i) ***K.P.Tamilmaran versus State*** reported in ***(SC) 2025 INSC 576***, (ii) ***Varsha Garg versus State of Madhya Pradesh and others*** reported in ***2022 SCC OnLine SC 986***, and (iii) ***Rajaram Prasad Yadav versus State of Bihar and another*** reported in ***(2013) 14 Supreme Court Cases 461***.



**Inference(s) of this Court**

10. Heard the rival contentions made by the learned counsels for both the parties and have also pursued the records with their able assistance.

11. Before proceeding further, it would be apposite to refer to the provisions encapsulated in Section 311 Cr.P.C. The provisions are extracted hereinafter:

***“311. Power to summon material witness, or examine person present:***

*Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or, recall and re-examine any person already examined; and the Court shall 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.”*

12. The Hon’ble Supreme Court of India in ***K.P.Tamilmaran***’s case (supra) has observed as under:-

“X X X X

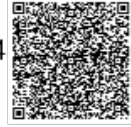
47. *Before moving further, we consider it necessary to deal with the law relating to Section 311 Cr.P.C. under which PW-49 was summoned as a witness.*

*Section 311 Cr.P.C. reads as follows:*

*“311. Power to summon material witness, or examine person present.— Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall 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.”*

*This Section 311 of Cr.P.C. provides wide powers to a Criminal Court, to do the following:*

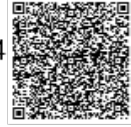
- i. Summon any person as a witness, or*
- ii. Examine any person present in court, though not summoned as witness, or*



iii. *Recall and re-examine any person already examined.*

*The above powers can be exercised 'at any stage of any inquiry, trial or other proceeding' under the Cr.P.C.. The provision can be divided into two parts. The word 'may' is used in the first part of the section which grants the Court the discretion to summon a witness. In contrast, the second part of the Section uses the word 'shall' which casts a duty on the Court to summon and examine or recall or re-examine any such person as a witness when it appears to the Court that it is essential to do so for a just decision in the case. In other words, the second part is mandatory, and Courts are obligated to exercise their powers under Section 311 Cr.P.C. when the evidence of any person is essential for a just decision of the case. (See: Jamatraj Kewalji Govani versus State of Maharashtra 1967 SCC OnLine SC 19).*

48. *As is clear from the language of the provision itself, there is a wide discretion with the Courts under Section 311 Cr.P.C. These powers can be exercised suo moto or on an application moved by either side. After all, the object is that the Court must not be deprived of the benefit of any valuable evidence. It is absolutely necessary that the Court must be apprised of the best evidence available. Thus, Courts have been given wide powers to decide on their own if a witness is required to be called or recalled for examination or re-examination. This power under Section 311 Cr.P.C. can be invoked at any stage of the trial, even after the closing of the evidence. Section 311 Cr.P.C. can also be read along with Section 165 of the Evidence Act, as the powers of the Court under Section 165 of the Evidence Act are complementary to Section 311 Cr.P.C.. As discussed above, powers under Section 311 Cr.P.C. can either be exercised on an application moved by either side to the case or suo moto by the Court. In case a person is not listed as a witness in the charge-sheet but later, the prosecution desires to bring that person as an additional prosecution witness, then the prosecution can move an application to bring this person as a prosecution witness. It is then for the Court to decide whether such a person is required as a witness or not. If the Court finds that such a person should have been examined as a prosecution witness and he/she was omitted*



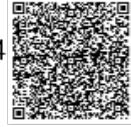
*from the list of witnesses due to some oversight, mistake or for any other reason, the Court may allow the application and such a person can be examined as a prosecution witness. Thereafter, the normal course of examination-in-chief, cross-examination, etc. would follow as per the procedure. On the other hand, when the Court calls a person as a Court witness, there are some restrictions regarding the cross-examination of such witness.”*

13. The Hon'ble Supreme Court, in **V. N. Patil Vs. K. Niranjan**, reported in **2021 (2) R.C.R. (Criminal) 310**, while examining the scope of Section 311 Cr.P.C observed that:

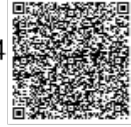
*"Object underlying Section 311 Cr.P.C is that there may not be failure of justice on account of mistake of either party in bringing valuable evidence on record or leaving ambiguity in the statements of the witnesses examined from either side. The determinative factor is whether it is essential to the just decision of the case. The significant expression that occurs is 'at any stage of enquiry or trial or other proceeding under this Code'. It is however, to be borne in mind that the discretionary power conferred under Section 311 CrPC has to be exercised judiciously, as it is always said wider the power, greater is the necessity of caution while exercise of judicious discretion."*

14. This principle has also been reiterated in **Swapan Kumar Chatterjee v. Central Bureau of Investigation**, reported in **2019(14) SCC 328**, the relevant paras of which read thus:

*"11. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this section to even recall witnesses for reexamination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law."*



15. Reverting to the case at hand, two persons namely Rakesh Kumar and Harpreet Kumar @ Vicky, sought to be examined as additional witnesses, are the cousins of deceased, and their direct connection to the events of the day of occurrence is undeniable. As per the complainant's application the above witnesses had visited the matrimonial house of deceased on 17.4.2014, approximately at 11.00 A.M., i.e. the day of alleged occurrence and during their said visit, the deceased had allegedly conveyed them about the maltreatment and harassment suffered by her at the hands of the accused due to demands of dowry. The compelling reason for summoning both the above witnesses stems from the conflicting narratives presented by both the prosecution and by the defence regarding their visit. While both the sides acknowledge the fact that Rakesh Kumar and Harpreet Kumar alias Vicky visited the deceased's matrimonial house on the day of the occurrence, they attribute "different colour" to the said visit. The prosecution version as articulated in the complainant Harmesh Lal's examination-in-chief and the application suggests that Rakesh Kumar's phone call on that morning led to a quarrel between the deceased Renu and her in-laws. Subsequently, deceased Renu informed the PW Harmesh about her distress. Conversely, the defence during the cross-examination of PW Harmesh Lal suggested that the said witnesses frequently visited the house of deceased Renu in the absence of other family members. The defence further implied that the father-in-law of the deceased had expressed annoyance about their unauthorized presence, which allegedly led to deceased Renu's frustration and the subsequent suicide. Given the said diametrically opposed interpretations of a shared factual event, the learned trial Court has rightly concluded that "*it is imperative that complete version of prosecution about the sequence of events and the nature of conversation*



*between the deceased and the witnesses as well as her in-laws be brought on record for effective adjudication of the matter and for just decision of the case.”* Therefore, the core dispute is not whether the said witnesses had visited the house of the deceased but the dispute is what had transpired during their visit and its significance to the instant case. The direct testimony of the witnesses (supra) is indispensable for resolving the said critical ambiguity. It is not merely about introducing new evidence but about clarifying and completing the narrative around an event, which is already acknowledged, albeit disputed by both the sides. In addition, the summoning of the above witnesses is essential to clarify the conflicting narratives presented by both the prosecution and the defence regarding the crucial events on the day of the occurrence. Moreover, their testimonies are indispensable for bringing forth the complete truth, thereby ensuring that the trial culminates into a just and equitable outcome. Therefore, the learned trial Court concerned, has rightly exercised its power in allowing the present application, even at an advanced stage of the trial, to unearth the truth.

16. The foundational premise underpinning Section 311 Cr.P.C. is that the Court is not a passive bystander in the trial process, rather is an active participant invested with wide discretion to summon any witness at any stage of the proceedings, if such witness appears to be essential for arriving at a just decision. The Court’s duty trances procedural technicalities and its primary obligation is to ensure that truth is not obscure for want of relevant evidence.

### **Final order**

17. In light of the foregoing discussion and in view of the judgments referred to hereinabove, this Court is of the considered view that the impugned order was passed after taking into account all the facts and



circumstances as also the arguments advanced and evidence produced before it. The same being speaking, well reasoned and based upon correct appreciation of facts needs no interference. As a corollary, the present revision petition stands dismissed.

18. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)  
JUDGE

June 10, 2025  
Gurpreet Singh

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