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

**04**

**CRM-M-16720-2025  
Reserved on :25.09.2025  
Pronounced on: 29.09.2025**

JATINDER SINGH

.....PETITIONER

Versus

STATE OF PUNJAB AND ANOTHER

..... RESPONDENT

**CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present: Petitioner in person.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

Mr. Ramesh Sharma, Advocate  
for respondent No.2.

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**SURYA PARTAP SINGH, J.**

1. The petitioner, who is facing a trial for the commission of offence punishable under Sections 325/34 IPC is aggrieved of the order, dated 21.02.2025, passed by the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Ludhiana, herein after being referred to as trial Court only. By virtue of above-mentioned order, hereinafter being referred to as impugned order only, the application moved by the petitioner under Section 311 Cr.P.C. has been dismissed.

2. It has been contended on behalf of petitioner that in the present case the petitioner is facing trial for the commission of above-mentioned offence and that during the course of trial when the witnesses were cross-examined by the petitioner, he was not aware of the fact that application



No.641866, which is the subject matter of current FIR was not on record and therefore, the petitioner could not cross-examine the above named prosecution witness qua abovementioned aspect. It has also been contended on behalf of petitioner that the above-mentioned witness, i.e PW-5, has wrongly removed certain other documents from the case file, and that, later on, with the help of information received under RTI Act, he has come to know that certain documents which were relevant, had been collected by the Investigating Officer, but he did not refer those documents in the final report. According to complainant since the above-mentioned documents are necessary to unearth the truth, he wanted to further cross-examine the PW-5 and for that purpose he moved the application under Section 311 Cr.P.C., but the same has been dismissed.

3. Heard.

4. It has been contended by the petitioner that the impugned order is against the fact as well as law, and that without proper appreciation of relevant law the learned trial Court has curtailed a valuable right of defence of the petitioner. According to petitioner the impugned order is perverse and therefore, there is need for interference and indulgence of appellate jurisdiction of this Court.

5. *Per contra*, the learned State counsel being assisted by learned counsel for the respondent No.2 has argued that proper opportunity of being cross-examination was afforded to the petitioner and that with a motive to delay the decision in the case, with mala fide intentions, the application under Section 311 Cr.P.C. has been filed by the petitioner. As per learned State counsel on proper appreciation of fact as well as law, the learned trial Court



has dismissed the above-mentioned application. According to learned State counsel there is no scope of interference in the impugned order and the present petition being devoid of merits, deserves dismissal.

6. It is relevant to mention here that in the case of ***Godrej Pacific Tech. Ltd. vs. Computer Joint India Ltd. 2008 (3) R.C.R.(Criminal) 897***, the re-examination of witness was allowed by the Hon'ble Supreme Court of India, when a witness was examined but inadvertently he could not prove the relevant documents. According to Hon'ble Supreme Court the object underlying Section 311 of Cr.P.C. is that there may not be failure of justice on account of mistake of either party in bringing the valuable evidence on record, or leaving ambiguity in the statements of the witnesses examined from either side.

7. It has also been observed by the Hon'ble Supreme Court that exercise of jurisdiction under the aforesaid Section is discretionary and in such circumstances it may even amount to filling of loopholes, but that is purely a subsidiary factor and cannot be taken into consideration for the shake of dispensation of justice.

8. In the case of ***Mohanlal Shamji Soni vs. Union of India and another 1991 (3) R.C.R. (Criminal) 182***, the Hon'ble Supreme Court has observed that under Section 311 Cr.P.C. Court has ample power to summon or recall or re-examine any person. In the case of ***Rajaram Prasad Yadav vs. State of Bihar and another 2013 (4) EastCrC 108***, the Hon'ble Supreme Court has ruled that if Court arrive at a conclusion that additional evidence is necessary, not because it would be impossible to pronounce judgment without it, but because there would be a failure of justice without such evidence being



considered, the application under Section 311 Cr.P.C. should be allowed.

9. It has also been observed by the Hon'ble Supreme Court that object of Section 311 Cr.P.C. imposes a duty on the Court to determine the truth and render a just decision.

10. In the light of above-mentioned principles of law if the facts and circumstances of the instant case are considered, it transpires that in the present case PW-5 is a material witness and the credibility of testimony of PW-5 is going to have far reaching effect on the outcome of instant case. Since at the time of cross-examination due to inadvertence, or otherwise, the petitioner/accused could not cross-examine the PW-5 qua some relevant aspect, in order to dispense justice duty lied with the learned trial Court to permit the petitioner to call the above named witness for further cross-examination. In my opinion the dispensation of justice being the ultimate goal of a criminal trial for any reason, whatsoever, the abovestated object cannot be allowed to take a back seat. Thus, in my opinion the learned trial Court committed an error of judgment when it observed that recalling of PW-5 for further cross-examination is not required.

11. In view of above-mentioned observations, it is hereby held that the impugned order passed by the learned trial Court is not sustainable in the eyes of law and needs interference and indulgence of supervisory jurisdiction of this Court. Hence, it is hereby held that by accepting the present petition, the impugned order deserves to be set aside. Thus, the present petition is hereby allowed and the impugned order is hereby set aside.

12. Learned trial Court is directed to reconsider the application in the light of observation in the foregoing paragraph, and pass fresh order on the



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application moved by the petitioner under Section 311 Cr.P.C.

**(SURYA PARTAP SINGH)**  
**JUDGE**

**29.09.2025**

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