



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

116

CRR-892-2025

Date of decision: April 2nd, 2025

Ranjeet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saurav Bhatia, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

The present revision petition has been filed challenging the order dated 18.03.2025 passed by learned Judge, Special Court, Ludhiana, in FIR No.41 dated 09.03.2023 under Sections 22 and 29 of The Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act'), registered at Police Station Sadar, District Ludhiana, whereby the application under Section 311 of the Cr.P.C. filed by the prosecution for summoning and examining three prosecution witnesses namely, ASI John Peter, Head Constable Gurvinder Singh, and Lakhvinder Singh has been allowed.

2. Learned counsel for the petitioner has contended that the impugned order suffers from serious legal infirmities. It is argued that the application under Section 311 of the Cr.P.C. was moved at a highly belated stage, thereby causing grave prejudice to the petitioner. It has been further contended that the learned trial Court has failed to adhere to the well-settled legal principles governing the invocation of Section 311 of the Cr.P.C., and that allowing the prosecution to examine these

witnesses at this stage would amount to granting an undue advantage, enabling it to fill lacunae in its case. Additionally, learned counsel submits that the learned trial Court lacked the jurisdiction to entertain the said application as it was an attempt to introduce evidence that the prosecution had consciously omitted to produce earlier.

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. The power under Section 311 of the Cr.P.C. is intended to ensure a just adjudication by allowing the Court to summon any witness whose evidence is essential for arriving at a proper and just conclusion. A perusal of the impugned order does not reflect any perversity or illegality; rather it has been passed in the interest of justice, and the petitioner would have a full opportunity to cross-examine the summoned witnesses, thereby eliminating any question of prejudice.

5. It is also imperative to point out that Section 397(2) of the Cr.P.C./438(2) of the BNSS imposes a statutory bar on the exercise of revisional jurisdiction in relation to interlocutory orders. The settled position in law is that an order allowing or rejecting an application under Section 311 of the Cr.P.C./348 of the BNSS, for summoning or recalling a witness is purely interlocutory in nature, as it does not determine the rights of the parties in a final or conclusive manner. Hon'ble the Supreme Court in *Sethuraman Versus Rajamanickam 2010 (5) RCR (Criminal) 512*, has unequivocally held that an order permitting the recall or summoning of a witness under 311 of the Cr.P.C. is interlocutory in nature and, therefore, not amenable to revision under Section 397 of the Cr.P.C. The relevant portion of the judgment reads as follows:

“4. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2)Cr.P.C. The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and other on the application under Section 311Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.”

6. Notwithstanding the issue of maintainability, even on merits, as already observed earlier, this Court does not find any legal infirmity in the impugned order warranting interference. A perusal of the record reveals that the learned trial Court has rightly exercised its discretion in allowing the application under Section 311 of the Cr.P.C. The examination of the three witnesses, ASI John Peter, Head Constable Gurvinder Singh, and Lakhvinder Singh has been deemed necessary by the trial Court for a just adjudication of the case, particularly in light of their role in handling the case property. The fact that their names were inadvertently omitted from the list of witnesses does not *per se* disentitle the prosecution from summoning them, nor does it confer any undue advantage upon the prosecution as the accused would still have the opportunity to cross-examine them.

7. The purpose of Section 311 of the Cr.P.C./348 of the BNSS is to ensure that no crucial piece of evidence is left out, and that the Court is placed in the best possible position to arrive at a just decision. The power under Section 311 of the Cr.P.C./348 of the BNSS is of wide amplitude and is meant to ensure that all relevant evidence is brought on record to facilitate a just decision. The mere fact that the application was filed at a later stage does not, by itself, render the order illegal, particularly when the examination of the witnesses is found to be necessary for the proper adjudication of the case. It has been consistently held by Hon'ble the Supreme Court that procedural delays should not defeat the ends of justice, and a fair trial demands that all material witnesses be examined.

8. The contention of the learned counsel that the prosecution is attempting to fill gaps in its case is unsubstantiated, as the purpose of summoning the witnesses is not to introduce new evidence but to clarify aspects that are already part of the case of the prosecution. The accused would still have an unimpeded right to cross-examine these witnesses and challenge their testimonies. Therefore, no prejudice would be caused to him.

9. As a sequel to the above, the instant petition stands dismissed.

10. 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.

April 2nd, 2025

Puneet

(MANJARI NEHRU KAUL)
JUDGE

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