



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

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CRM-M-18399-2025

Date of decision: May 12th, 2025

Birender

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

Prayer in the instant petition is for setting aside the order dated 20.03.2025 passed by learned Additional Sessions Judge, Narnaul, vide which an application filed by the by the petitioner/complainant under Section 311 of the Cr.P.C. has been dismissed.

2. The learned counsel appearing on behalf of the petitioner has contended that the learned trial Court erred in law and on facts in dismissing the application filed under Section 311 of the Cr.P.C., seeking to summon and examine the Bank Manager and Bank Clerks of two financial institutions. It has been argued that the trial Court misconstrued the application as a mere dilatory tactic aimed at delaying the proceedings. The learned counsel has further submitted that Section 311 of the Cr.P.C. confers wide discretionary powers on the Court to summon material witnesses at any stage of the trial, and in the present matter, as the trial is still underway, the question of any undue delay did not arise.

3. It is further contended that the dispute in the present case centres around a petrol pump, and the petitioner/complainant had purchased oil from a company against duly issued bills. Therefore, the examination of the bank officials, along with production of the relevant bills, was essential for the just and fair adjudication of the matter. It has been strongly urged that refusal to summon such witnesses would result in a miscarriage of justice.

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

5. It is a settled principle of law that the power under Section 311 of the Cr.P.C./348 of the BNSS is to be exercised judiciously and not arbitrarily. The paramount consideration before invoking this provision is whether the evidence sought to be adduced is essential for arriving at a just decision in the case. The provision is not intended to be used for filling up *lacunae* in a case of a party or to cause unwarranted delay in the proceedings.

6. In the present case, the learned trial Court, while rejecting the application rightly observed that the alleged incident pertains to 02.02.2021, and the transactions relating to the purchase of oil, which form the basis of the claim, took place between 03.02.2020 and 18.01.2021. The petitioner, however, failed to offer any cogent explanation for the inordinate delay of nearly four years in filing the instant application under Section 311 of the Cr.P.C. Moreover, it is noteworthy that the statements of the proposed witnesses were never recorded during the investigation under Section 161 of the Cr.P.C., which further weakens the justification for their belated examination.

7. It is also pertinent to note that the learned trial Court has taken into account the overall conduct of the petitioner and concluded, with sufficient reasoning, that the present application appears to be an attempt to prolong the proceedings under the guise of fairness in adjudication. This Court finds no infirmity in that reasoning.

8. In light of the above circumstances, this Court is of the considered opinion that no failure of justice would occur if the proposed witnesses are not examined at this belated stage. The application appears to be devoid of merit and seems to have been filed with the intent to delay the trial rather than to facilitate a fair adjudication.

9. Accordingly, the present petition challenging the dismissal of the application under Section 311 of the Cr.P.C. is 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.

May 12th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No