



CRR-1310-2025 (O&M)

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

115

CRR-1310-2025 (O&M)

Date of Decision: 19.05.2025

Lovedeep Suman @ Lovish @ Love

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Surmeet Singh Sandhu, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

KIRTI SINGH, J.(Oral)

The present revision petition has been filed for quashing of the order dated 21.01.2025 passed by learned Addl. Sessions Judge, Kapurthala in case bearing no. SC 178-2022 arising out of FIR No.54 dated 15.07.2022, under Section 376-DA of IPC and Section 4 of Prohibition of Child Marriage Act, 2012, registered at Police Station Sadar Phagwara, District Kapurthala, vide which the application under Section 311 Cr.P.C. filed by the petitioner has been dismissed.

2. The facts in brief are that, the aforesaid FIR was registered at the instance of the complainant who alleged that on 13.07.2022 her 15 year old daughter (victim) left home for school, but the complainant received a call from school that the victim did not reach there. Despite best efforts to find the victim, it was only on 15.07.2022 that she was recovered in a frightened and nervous state. Upon asking, the victim revealed that on 13.07.2022, the petitioner herein had taken took her to a room in a white car and forcefully raped her without her consent.



3. Learned counsel for the petitioner submits that an application under Section 311 Cr.P.C. for re-examination of victim (PW-2) was moved before the learned Trial Court as some relevant and important questions such as whether signatures of PW2 were obtained on blank papers; whether any missing report was made by her parents; whether she has stated anything to any person at the bus stand from where she was recovered and whether she has stated anything to her school teacher etc., were not asked at the time of her cross examination conducted by the counsel who was previously engaged by the petitioner. Learned counsel further submits that these questions are relevant and important for the disposal of the case and that the application was moved as soon as this came to the notice of the counsel representing the petitioner before the learned Trial Court. Hence, it is prayed that the impugned order may be set aside and the petitioner be given another opportunity to re-examine the victim PW-2.

4. Learned State counsel submits that the application moved under section 311 Cr.P.C. was dismissed after proper application of mind, by way of a detailed and well reasoned order, and after giving due consideration to the facts and circumstances of the case. Thus, the same may be upheld by this Court and the present petition be dismissed.

5. Heard.

6. At the outset, it would be pertinent to mention that the provision of Section 397 (2) of the Cr.P.C. which imposes an express bar on the Courts to adjudicate interlocutory orders by exercising their revisional powers. With respect to invocation of revisional jurisdiction of the High Courts to challenge orders deciding applications moved under



Section 311 Cr.P.C, it was conclusively held by the Hon'ble Supreme Court that the same is not maintainable. It was observed that, "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 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C."

7. Even on merits, learned counsel for the petitioner has not been able to put forth any cogent and convincing reason and has also not been able to point out any illegality in the impugned order that would warrant interference by this Court.

9. A perusal of the case at hand, reflects that the application under Section 311 Cr.P.C. was moved as an afterthought pursuant to the change of counsel of the petitioner and that too at the belated stage when the cross examination of the petitioner stood concluded and further 3 more prosecution witnesses stood successfully examined. Learned Trial Court has observed in the impugned order that PW2 was cross examined on 03.01.2023 in two lengthy sessions and that she was examined on all the material aspect. Adverting to the merits of the application moved under Section 311 of the Cr.P.C. by the petitioner, this Court does not find any merit in the submissions made by his counsel. The victim during her cross-examination was thoroughly examined and change of counsel is not a ground to allow further cross examination.

10. The Hon'ble Supreme Court, in ***V. N. Patil Vs. K. Niranjan, 2021 (2) R.C.R. (Criminal) 310***, while examining the scope of Section 311 of 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."

11. Trite to say that though the Court is vested with the power to call witnesses at any stage in order to meet the ends of justice, however, it must be cautioned to ensure that the same is not sought to be invoked only to fill up the lacunas left behind in a case, or be used as a tactic to delay the proceedings. The Court must make sure that the process itself does not end up becoming a punishment for the accused.

12. In light of the foregoing discussion and in view of the judgments referred to herein-above, 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.

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

(KIRTI SINGH)
JUDGE

19.05.2025
Kapil

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