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

**CRM-M No.25292 of 2025
Date of decision : 07.07.2025**

Amarjeet Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S. K. Kanojia, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed by the petitioner praying for impugning order dated 03.03.2025 (Annexure P-6) whereby the application filed by the petitioner under Section 311 Cr.P.C. read with Section 91 Cr.P.C. for re-summoning/examination of the Investigating Officer along with the case property was dismissed by the learned trial Court without considering the material aspects of the case. Further prayer has been made that re-summoning/examination of the Investigating Officer along with case property, i.e. Bricks be allowed (in CHI No.716/2021 pending for 20.05.2025, State vs. Jasvir Singh).
2. Learned counsel for the petitioner has vehemently contended that the petitioner before this Court is the complainant, on whose statement, the FIR was lodged. He has submitted that SI



Amrinder Singh, i.e. the Investigating Officer had appeared before the Court during the trial and stated that the bricks were taken in possession by the Investigating Agency but later on, he stated that he has not seen the case property as the same was not brought by the police on the date of his examination. He has submitted that the same was a material piece of evidence and hence the petitioner filed an application under Section 311 of Cr.P.C. for recalling the Investigating Officer to bring the case property as per the recovery memo, Exhibit P-5/PW-2. He has submitted that the case property were recovered by the police vide recovery memo. He has submitted that the provisions of Section 311 Cr.P.C. are to be invoked to meet the ends of justice. He has submitted that the learned trial Court failed to appreciate the same and thus has illegally declined the application filed by the petitioner-complainant. He has relied upon the judgments passed by the Hon'ble Supreme Court in '*Himanshu Singh Sabharwal vs. State of M.P.*', (SC) 2008(2) RCR (Criminal) 267 and by this Hon'ble Court in '*Gobind Parsad vs. State of Punjab*' CRR-1763-2018, decided on 15.11.2022 and '*Dr. Devender Singh vs. Navdeep Singh and another*' 2017(1) RCR (Criminal) 690, etc. He has submitted that the impugned order being unsustainable in the eyes of law deserves to be set aside.

3. The Court has heard learned counsel for the petitioner and perused the record with his able assistance.

4. Admittedly the petitioner is the complainant, at whose behest the FIR has been lodged. The appreciation of the record would



reveal that SI Amrinder Singh, i.e. the Investigating Officer, was examined as PW-2 on 03.04.2023 and the request made by the APP to defer his examination was also declined. However the application was filed on 12.03.2024, i.e. after about a year.

5. Needless to say that the provisions of Section 311 Cr.P.C. though to be invoked in a liberal manner but the same cannot be allowed to fill up the *lacunas* or delay the trial.

6. However, in view of the law settled, it is apparent that the Hon'ble Supreme Court has laid down that the power under Section 311 Cr.P.C (Section 348 of BNSS) should be invoked only to meet the ends of justice. The power should be exercised for strong and valid reasons and it should be exercised with great caution and circumspection. Section 348 of BNSS (Section 311 Cr.P.C) is reproduced hereunder:-

“348. 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.”

7. From the bare reading of the provision of Section 348 of BNSS (Section 311 Cr.P.C.), it is apparent that the Court has ample power to re-examine or recall any such person whose evidence appears



to be essential for the just decision of the case. Reliance in this regard can be placed in case of *Swapan Kumar Chatterjee Vs. Central Bureau of Investigation* 2019(14) SCC 328, wherein it has been held as under:-

“12. 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 re-examination 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.”

8. Weighing the facts and circumstances of the case and the law settled, this Court finds no infirmity in the impugned order passed by the learned Judicial Magistrate Ist Class, Hoshiarpur dated 03.03.2025 and thus the present petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.07.2025
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(RAJESH BHARDWAJ)
JUDGE

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