

CRM-M-28838-2025 (O&M)

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

**CRM-M-28838-2025 (O&M)
Date of decision : 29.05.2025**

Simardeep Singh @ Sunny

...Petitioner

Versus

State of Punjab

...Respondent

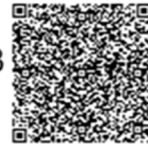
CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

HARPREET KAUR JEEWAN, J. (Oral)

1. Prayer in the present petition, filed under Section 528 of the BNSS, 2023, *inter alia*, is for setting aside the impugned order dated 20.11.2024 (P-2), passed by the Judicial Magistrate First Class, Amritsar, whereby, application under Section 311 Cr.P.C. for recalling of the prosecution witnesses for cross-examination, was declined in FIR No.62 dated 18.03.2021, registered at Police Station Gate Hakima, Amritsar, under Sections 451, 295, 323, 427, 341, 506 and 34 of the IPC.

2. Learned counsel for the petitioner contends that the matter was listed before the trial Court for recording the testimony of PW-1 ASI Nirvail Singh, PW-2 Surinder Singh and PW-3 Gurjit Singh. On 28.02.2023, though examination-in-chief of the aforesaid witnesses was recorded, but they could not be cross-examined as learned counsel for the petitioner-accused did not appear despite repeated telephonic calls made by the petitioner to him. Similarly, on 20.04.2023, when the testimony of PW-4 Sarabjit Singh and PW-5 ASI Jatinder Singh was



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recorded, they could not be cross-examined. As such, the petitioner moved an application under Section 311 Cr.P.C., which has been declined by the trial Court merely on the ground that power under Section 311 Cr.P.C. is to be exercised in rare cases, despite agreeing with the contention raised on behalf of the petitioner that no one should be condemned unheard.

3. Notice of motion.

4. On asking of the Court, Ms. Ramta Chowdhary, DAG, Punjab, accepts notice on behalf of the respondent-State and has not raised any objection, however, submitted that reasonable costs should be imposed upon the petitioner.

5. Keeping in view the facts and circumstances of this case and considering the principle of criminal jurisprudence that no one should be prejudiced and condemned unheard, I am of the considered opinion that the petitioner who is facing criminal trial should be afforded one opportunity to properly cross-examine the prosecution witnesses.

6. In such circumstances, present petition is allowed. The impugned order dated 20.11.2024, passed by learned trial Court is set-aside. Learned trial Court shall afford one effective opportunity to the petitioner to cross-examine the aforesaid witnesses, subject to payment of costs of Rs.10,000/-.

7. Pending miscellaneous applications, if any, shall stand disposed of.

29.05.2025

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[HARPREET KAUR JEEWAN]

JUDGE

Whether speaking / reasoned :
Whether Reportable :

Yes	No
Yes	No