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

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CRR-1507-2025 (O&M)

Date of decision: 23.07.2025

Prabh Kiran Singh alias Prabhkiran Singh

....Petitioner

V/s

Gurmail Singh Khinda

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Ms.Navjot Kaur, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

Learned counsel for the petitioner, at the outset, has submitted that the instant petition has been filed, inadvertently, as a criminal revision before this Court, which is not maintainable in terms of dicta passed by the Hon'ble Supreme Court in a case titled as ***Sethuraman versus Rajamanickam; 2009(5) SCC 153***. He has further averred that the present petition be treated as a Criminal Miscellaneous Petition under Section 528 of the BNSS, 2023.

In the interest of justice, the prayer is accepted. The instant petition is being treated as a petition under Section 528 of BNSS, 2023.

1. The present petition has been filed seeking quashing of the order dated 25.04.2025 passed by learned Judicial Magistrate Ist Class, Chandigarh whereby the application filed by the respondent (herein) - complainant, under Section 311 of Cr.P.C. of 1973 was allowed and respondent - complainant was permitted to lead the additional evidence.

2. Learned counsel for the petitioner has iterated that the petitioner has filed a detailed reply specifically opposing the application for additional



evidence on the ground that the respondent – complainant has failed to disclose any particulars of the documents sought to be brought on record. Despite the glaring absence of particulars, the trial Court without proper appreciation of facts and law has allowed the application in hand. According to learned counsel, the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It is further contended by learned counsel that the impugned order is cryptic, sketchy, non-reasoned, devoid of merit and thus, deserves to be set-aside. It has been further iterated that the additional evidence sought to be brought on record by virtue of Section 311 Cr.P.C., are not necessary for just and proper adjudication of the case and, therefore, the same is irrelevant. Further, no ground is made out by the applicant (before the trial Court) to bring forward the evidence by virtue of Section 311 of Cr.P.C. at this belated stage. Furthermore, it is pertinent to note that the impugned order is non-speaking as the concluding paragraph of the order clearly indicates that the Court below has allowed the application without properly considering the facts and circumstances of the case. Moreover, no reasoning has been assigned to justify the decision. Therefore, on this ground alone, the impugned order deserves to be set-aside.

3. *Per contra*, learned counsel appearing for the complainant-respondent has opposed the instant petition by arguing that the impugned order does not suffer from any illegality. According to learned counsel, certain documents were not the possession of the respondent – complainant at the time of filing of the complaint and therefore, the complaint was instituted without annexing those documents. It is further averred that the



said documents are essential for the just and proper adjudication of the present complaint. Thus, dismissal of the instant petition is entreated for.

4. I have heard learned counsel for the rival parties and perused the paper-book.

5. It would be apposite to refer herein to a judgment passed by this Court in case titled as ***Karamjit Singh vs. State of Punjab and another: 2024 NCPHHC 24178***; relevant whereof reads as under:-

“8.4 As an epilogue to the above rumination, the following principles emerge:

(I) The broad gamut for exercising power by a criminal trial Court under Section 311 of Cr.P.C. are as follows:

(i) The prime factor for considering a plea under Section 311 of Cr.,P.C. is as to whether such evidence “appears to be essential to the just decision of the case.”

(ii) Section 311 of Cr.P.C. can be invoked by a criminal trial Court even when cross-examination of a witness has earlier been foreclosed by a Court order. Such exercise of power by the Court cannot be construed as the concerned Court recalling/reviewing its own order.

(iii) Section 311 of Cr.P.C. empowers a criminal trial Court to even allow further examination/cross-examination of a witness at instance of the prosecution/accused.

(iv) A criminal Court is well within, its judicial discretion, to summon any person as a witness at any stage of proceedings/trial etc. till such Court is seized of the matter.

(v) A criminal trial Court may exercise power under Section 311 of Cr.P.C. on an application made by a party to lis or on its own volition.

(vi) Successive application(s) for summoning same witness for examination/re-examination is not debarred but such a plea deserves to be dealt with exercising a higher degree of circumspection.

(II) No straight jacket formulae can be enumerated regarding mode, manner and extent of exercise of power under Section 311 of Cr.P.C by a criminal trial Court as every case has its own unique facts/circumstances. It is neither possible nor pragmatic to lay down any such exhaustive guidelines as every case is sui generis in terms of factual conspectus.

(III) Needless to say that exercise of power under Section 311 of Cr.P.C. by a criminal trial Court should be undertaken by according cogent and lucid reasons, in accordance with basic principles of our criminal jurisprudence, for such exercise of its power.”



6. The respondent – complainant instituted a complaint titled as *Gurmail Singh Khinda vs. Prabh Kiran Singh* under Section 138 of the Negotiable Instruments Act against the petitioner alleging dishonour of cheque purportedly issued by the petitioner in discharge of a legally enforceable debt. Based on the preliminary evidence of the respondent-complainant, the petitioner was summoned by the trial Court and subsequently appeared, whereupon he was granted bail vide order dated 14.05.2024.

During the course of trial proceedings, an application under Section 311 of the Code was filed on behalf of the complainant-respondent seeking permission to adduce additional evidence by way of a fresh affidavit. Upon issuance of notice, the petitioner-accused duly appeared and opposed the application by asserting that the same was not maintainable as the respondent-complainant has failed to disclose any particulars of the documents sought to be brought on record. Moreover, the respondent-complainant cannot be allowed to fill up lacuna in his case. It was further submitted that the complainant seeks to introduce the aforesaid documents through the present application solely to harass the petitioner-accused, which is impermissible under law. Denying all the claims made in the application, the accused-petitioner (herein) has requested the dismissal of the present application. However, the trial Court, vide impugned order dated 25.04.2025, proceeded to allow the application by asserting that the instant complainant has been instituted under Section 138 of the Negotiable Instruments Act, which primarily rests upon the documentary evidence. Furthermore, no prejudice is likely to be caused to the accused-petitioner (herein) if the complainant is permitted to produce the additional documents,

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as both the accused-petitioner should be afforded ample opportunity to cross-examine the complainant on all material aspects, including the authenticity and veracity of the documents sought to be brought on record.

7. The factual conspectus of the matter in hand reveals that the complainant-respondent has filed the application in question before the trial Court to adduce additional evidence by way of a fresh affidavit. It appears that the complainant has been instituted under Section 138 of the Negotiable Instruments Act, a provision that predominately relies upon documentary evidence to establish the commission of the alleged offence. The gravamen of such proceedings is on the dishonor of cheque purportedly issued in discharge of a legally enforceable debt or liability. The documents sought to be brought on record by way of additional evidence are deemed necessary for the effective and proper adjudication of the matter in hand. It is well established principle of law that, in the interest of justice, valuable evidence that may have been omitted due to an oversight or mistake by either party can be brought on record at any stage of the proceedings, provided it is essential for the just decision of the case. Given the nature of the offence, the evidentiary foundation of the complaint is primarily documentary and the adjudication thereof necessitates a meticulous examination of the documents forming the substratum of the case. Accordingly, the production and scrutiny of such documentary evidence are vital to the just and proper adjudication of the matter. The evidence, mainly documentary, holds significant importance in the present case, as it is crucial for the complete and fair adjudication of the matter and bears significantly on the issue in dispute. Furthermore, no prejudice would be caused to the accused-petitioner, as he shall be afforded an opportunity to scrutinize the



authenticity and veracity of the evidence through cross-examination or by presenting his own defence.

8. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below. In the considered opinion of this Court, the trial Court has appropriately dealt with the application in question by allowing the same.

9. In view of the above discussion, it is directed as follows:

(i) The impugned order dated 25.04.2025 passed by the JMIC, Chandigarh does not call for any interference. However, keeping in view the factual milieu of the case in hand, this Court deems it appropriate that the respondent-complainant shall furnish costs of Rs.35,000/- to the accused-petitioner (herein) before leading the additional evidence in terms of the impugned order. Payment of these costs shall be a condition precedent.

Ordered accordingly.

10. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Court below shall proceed further, in accordance with law, without being influenced therefrom.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 23, 2025
Ajay

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