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

**CRM-M No.34352 of 2025
Date of decision : 04.07.2025**

Satish Kumar

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Siddharth Gupta, Advocate
for the petitioner (through video conferencing).

RAJESH BHARDWAJ, J.

1. Present petition has been filed by the petitioner praying for quashing/setting aside the impugned order dated 08.05.2025 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Sangrur in case arising out of FIR No.0262, dated 07.09.2019, under Sections 279, 337, 427 of IPC, 1860, registered at Police Station Bhawanigarh, District Sangrur, whereby the application dated 17.09.2024 filed by respondent No.2/complainant under Section 311 Cr.P.C. was allowed. Further prayer has been made that application filed by respondent No.2/complainant be ordered to be dismissed with cost and any evidence recorded after passing of impugned order dated 08.05.2025 shall not be ordered to be read into evidence.

2. It has been contended by learned counsel for the petitioner that the petitioner is aggrieved by the impugned order dated 08.05.2025



whereby the learned Judicial Magistrate Ist Class, Sangrur had accepted the application filed under Section 311 Cr.P.C. He has submitted that the application has been filed only to fill up the *lacuna* in the case of prosecution which is against the law settled. He has submitted that the petitioner was implicated in the present case in a premeditated manner without there being any evidence against him. He has submitted that 30 opportunities were granted to the prosecution to conclude its evidence but despite that, the prosecution did not conclude its evidence. It is thereafter, respondent No.2/complainant had filed an application under Section 311 Cr.P.C., which is in highly illegally and unlawful manner. He has submitted that the provisions of Section 311 Cr.P.C. cannot be invoked in a clandestine manner where the prosecution has itself failed to produce its evidence despite 30 opportunities having been granted. He has submitted that the impugned order suffers from a patent illegality and is against the law settled, hence, the same 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. On perusal of the record, it is deciphered that the application under Section 311 Cr.P.C. was filed for summoning the complainant. As reflected from the record, the complainant was lodged in another case in District Jail, Sangrur. Though the service was effected upon the authorities, however the Jail Authorities failed to produce the complainant before the Court. Though it is apparent from



the record that the prosecution was granted various opportunities, however the satisfactory reason has been found that the complainant could not be examined before the Court as he was lodged in Jail. There is no denial to the fact that the examination of the complainant is essential for the just decision of the case.

5. Needless to say that the provisions of Section 311 Cr.P.C. are sacrosanct in nature. 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.”

6. 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.”

7. Weighing the facts and circumstances of the case on the anvil of the law settled, this Court finds no infirmity in the impugned order passed by the learned Judicial Magistrate Ist Class, Sangrur dated 08.05.2025 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.

04.07.2025

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(RAJESH BHARDWAJ)
JUDGE

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