



CRM-M-37911-2025

1

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

CRM-M-37911-2025

Date of decision: 02.08.2025

Sandeep Kaur @ Sheepa

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present : Mr. R.P. Dhir, Advocate for the petitioner
(through Video Conference).

Mr. Gurpartap S. Bhullar, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS Act, 2023 seeking quashing of the order dated 29.05.2025 passed by learned Additional Sessions Judge, Hoshiarpur whereby the application filed by the petitioner (herein), under Section 311 of Cr.P.C. of 1973, for recalling of the prosecution witnesses i.e. PW-1 SI Jarnail Singh, PW-3 ASI Kulwinder Singh and PW-5 ASI Ajay Kumar for the purpose of further cross-examination has been dismissed.

2. Learned counsel for the petitioner has iterated that the impugned order is contrary to both law and the material available on record. The application of the petitioner for recalling the aforesaid prosecution witnesses for effective cross-examination has been erroneously dismissed by the Court below which has caused serious prejudice to the petitioner. Referring to Annexures P-3 to P-5 i.e. examination-in-chief and incomplete cross-examination of the aforesaid witness, learned counsel has submitted that the earlier cross-examination of these witnesses was superficial and



ineffective and the right to an effective cross-examination is a fundamental component of a fair trial. According to learned counsel, the petitioner was in custody during COVID-19 pandemic i.e. when the functioning of the Court was largely disrupted and the presence of the accused was exempted and during this period, the aforesaid prosecution witnesses were examined and hence the petitioner could not fully avail the opportunity of cross-examination of these witnesses due to the circumstances beyond his control. According to learned counsel, the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It has been further iterated that it is a settled principle of law that the recall of witnesses can be permitted in the interest of justice and to ensure a fair trial. It is further contended by learned counsel that the impugned order is cryptic and devoid of merit and thus, deserves to be set-aside and prays for recall of the aforesaid key witnesses to conduct proper and effective cross-examination in the interest of justice. On the strength of aforesaid submissions, the grant of *petition in hand* is entreated for.

3. *Per contra*, learned counsel appearing for the State has opposed the instant petition by arguing that the impugned order does not suffer from any illegality. Referring to the reply dated 30.07.2025 filed by the State, learned State counsel has submitted that the aforesaid prosecution witnesses i.e. PW-1 and PW-3 were examined-in-chief on 06.09.2021 whereas and PW-5 was examined-in-chief on 15.11.2021 respectively. All these witnesses were duly cross-examined by the counsel for the petitioner on 25.04.2022, following which the prosecution evidence was closed on the same date. According to learned State counsel, the petitioner was afforded



ample opportunity to effectively cross-examine these witnesses. He has further submitted that the petitioner has not shown any justifiable or compelling reason for seeking recall of the aforesaid witnesses after a considerable lapse of time. Furthermore, the instant application is an afterthought, especially when the case has already progressed to the stage of defence evidence and arguments. According to State counsel, the trial Court has rightly dismissed the instant application for recalling the aforesaid witnesses by a well-reasoned order and hence the 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 petitioner namely Sandeep Kaur @ Sheepa was arrested in connection with FIR No.129 dated 11.09.2020, registered at Police Station Chabbewal, District Hoshiarpur, for the alleged possession of 50 grams of Diacetylmorphine. The case was registered under Sections 21/61/85 of the NDPS Act. After completion of investigation, the charge-sheet was filed before the concerned trial Court on 05.02.2021 and the charges were framed on 08.04.2021. The examination-in-chief of PW-1 ASI Jarnail Singh and PW-3 ASI Kulwinder Singh was conducted on 06.09.2021 and that of PW-5 ASI Ajay Kumar on 15.11.2021. All the three witnesses were duly cross-examined by the counsel for the petitioner on 25.04.2022 whereinafter prosecution evidence was closed. While the trial was underway, the co-accused Ashok Kumar @ Shoka i.e. husband of the petitioner, was declared a proclaimed offender on 14.01.2025.

6.1. During the course of trial proceedings, an application under Section 311 of the Code was filed on behalf of the petitioner-accused seeking recalling of the aforesaid witnesses who were examined over 03

**CRM-M-37911-2025**

5

years ago on the ground that the petitioner was arrested on 11.09.2020 during the COVID-19 pandemic. During this period, the aforesaid witnesses were examined on 06.09.2021 and 15.11.2021 respectively and their cross-examination was conducted on 25.04.2022. However, a stand was taken in the application in hand that due to prevailing uncertainties during the pandemic and an informal understanding that the matter would be resolved by imposing fine and sentence for the period already undergone, the effective cross-examination was not carried out and hence an opportunity be granted to the defence for conducting meaningful and effective cross-examination of the said witnesses, in the interest of justice. Upon issuance of notice, the State opposed the application.

7. A perusal of the impugned order reveals that the charges under the NDPS Act were framed on 25.02.2021. The aforesaid witnesses were duly examined-in-chief and cross-examined by the learned defence counsel in the year 2021-22. Subsequently, the matter was fixed for recording of defence evidence and final arguments. However, during this stage, co-accused Ashok Kumar absented from the proceedings and was declared a proclaimed offender on 14.01.2025. The instant application has been filed at a belated stage, seeking recalling of the aforesaid witnesses who were examined more than 03 years ago. Although, the power under Section 311 Cr.P.C. is indeed wide and discretionary but such power must be exercised judiciously and not in a routine manner, especially in the absence of any cogent justification. The plea of the petitioner that the cross-examination was ineffective due to the prevailing pandemic circumstances and an alleged informal understanding that the matter would be concluded on the basis of



CRM-M-37911-2025

6

fine and sentence already undergone, is wholly untenable. Any such understanding between the Court and the accused is not borne out from the record and is, in fact, unfathomable in law. Furthermore, the very fact that the same counsel had conducted the cross-examination of these witnesses negates any claim of procedural disadvantage. In the factual milieu of the case, the application in hand appears to be an afterthought and lacks *bona fide*.

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 dismissing the same.

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

(i) The impugned order dated 29.05.2025 passed by the Additional Sessions Judge, Hoshiarpur, does not call for any interference and deserves dismissal.

Ordered accordingly.

(ii) 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.

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

(SUMEET GOEL)
JUDGE

August 02, 2025

Ajay

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