



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

**CRM-M-40961-2025
Date of Decision: 31.07.2025**

Pardeep Kumar

..... Petitioner

Versus

Manjit Basra and another

....Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lokesh Narang, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed for quashing of order dated 15.07.2025 passed by the learned Judicial Magistrate First Class, Phagwara in Complaint case titled as '**Manjit Basra and another Vs. Pardeep Kumar**' bearing NACT No.95 of 2021 dated 16.03.2021 under Section 138 of Negotiable Instruments Act, District Kapurthala, whereby the application filed by the petitioner for recalling witness CW-1 Naranjan Dass, was dismissed.

2. It has been submitted by learned counsel for the petitioner that the petitioner was prosecuted by the respondent in a complaint under Sections 138 and 142 of Negotiable Instruments Act. He submits that during trial, the complainant examined CW-1 Naranjan Dass, however, the petitioner could not put some important questions for the just decision of the case. Further cross-examination of CW-1 Naranjan Dass was essential hence, he filed an application under Section 311 Cr.P.C. for recalling witness CW-1, namely, Naranjan Dass, failed to appreciate the law settled and thus, illegally dismissed the same. He submits that the



petitioner is facing prosecution in a complaint filed under Section 138 of NI Act and non cross-examination of CW-1, namely, Naranjan Dass would result in a grave injustice to the petitioner. It is submitted that the cross-examination of this witness is essential for the just decision of the case and the petitioner would suffer an irreparable loss and injury, if the same is not allowed to be cross-examined. He submits that the provisions of Section 311 Cr.P.C. are liberal in nature and the Court can invoke the power under Section 311 Cr.P.C. at any stage of the trial. He thus, submits that the impugned order being against the law settled, deserves to be set aside and the present petition be allowed by grating opportunity to the petitioner to cross-examine CW-1, namely, Naranjan Dass.

3. This Court has heard learned counsel for the petitioner and perused the record with his able assistance. It is deciphered from the facts and circumstances of this case and the arguments advanced, the petitioner before this Court is an accused who is facing prosecution in a complaint filed by the respondent under Sections 138 and 142 of Negotiable Instruments Act. The precise issue raised by counsel for the petitioner is that some material questions were left to be asked from CW-1, namely, Naranjan Dass, which were essential for the just decision of the case, hence, the application under Section 311 Cr.P.C. was filed.

4. For resolving the issue involved in the present case, the provision of Section 311 Cr.P.C. is necessary which read as under:

“311. Power to summon material witnesses, 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.”

Thus, it is evident that the power under Section 311 Cr.P.C. are sacrosanct in nature and can be invoked at any stage of the trial, if the Court finds that examination of witness sought to be summoned is essential for the just decision of the case.

5. From the bare reading of the provision of 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 to the just decision of the case. However, Hon'ble Supreme Court in the case of **Swapan Kumar Chatterjee vs. Central Bureau of Investigation, (2019) 14 SCC 328** 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 wide 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.”

6. In the facts and circumstances of the case, this Court is convinced that witness-Naranajan Dass is a material witness. As the



counsel for the petitioner could not cross-examine this witness, the petitioner cannot be victimized for the same. The witness being material in nature, deserves to be granted one effective opportunity to the petitioner subject to the payment of cost of Rs.10,000/- to be paid to the complainant.

7. Weighing the facts and circumstances of the case, on the anvil of the law settled, this Court finds that the impugned order dated 15.07.2025 is unsustainable in the eyes of law and the same is hereby *set aside*. The trial Court is requested to ensure providing one effective opportunity to the petitioner for cross-examination of CW-1 Naranjana Dass subject to the payment of costs of Rs.10,000 to be paid to the complainant. Trial court is further requested to issue notice to the complainant and on his appearance, amount of Rs.10,000/- awarded as costs, shall be paid to him.

8. Needless to say that if the trial Court finds that the petitioner is misusing the opportunity granted to him and delaying the trial, it would be at liberty to proceed with the trial in accordance with law.

9. Petition is allowed in above-mentioned terms.

31.07.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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