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

CRM-M-51080-2019

Date of Decision:-15.05.2025

**Shahrukh**

...Petitioner

Vs.

**State of Haryana**

...Respondent

**CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Kunal Dawar, Advocate for petitioner.

Mr. Sulinder Kumar, DAG, Haryana.

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**AMARJOT BHATTI, J.**

1. The petitioner – Shahrukh has filed this petition under Section 482 Cr.P.C. for quashing of order dated 08.11.2019 passed by learned Additional Sessions Judge, Fast Track Court, Faridabad (Annexure P-1) vide which application filed under Section 311 Cr.P.C. moved by respondent-State at the stage of final arguments for recalling of Dr. Prashant PW-19 in FIR No.42 dated 18.01.2018, under Sections 365/34 of IPC, 1860, registered at Police Station Sector 55, Faridabad, challan presented under Sections 323, 506, 363 of IPC and Section 6 of POCSO Act, 2012 was allowed.

2. Learned counsel for petitioner argued that prosecution filed application under Section 311 Cr.P.C. only to fill up the lacuna in the case. Testimony of Dr. Prashant PW-19 was clear. There was no requirement to recall him for further examination-in-chief. During trial, prosecutrix as



well as her father did not support the prosecution case and they were declared hostile. Their statements are Annexure P-5 and Annexure P-6. Dr. Prashant as PW-19 categorically stated during cross-examination that the parcels were sealed with seal bearing impression PC. He further stated that on MLR Exhibit PAE (Annexure P-3) and Exhibit PAF (Annexure P-4) had fixed seal PC on the *pullandas*. Said statement of Dr. Prashant PW-19 is Annexure P-7. There was Dr. Sidharth, Assistant Director, FSL Karnal examined as PW-20. Said DNA report had come against the petitioner. The statement of petitioner was already recorded under Section 313 Cr.P.C. and the defence evidence was also concluded when prosecution filed application under Section 311 Cr.P.C. (Annexure P-8) to recall Dr. Prashant PW-19. Said application was contested by filing reply (Annexure P-9). There was no valid justification for passing the impugned order dated 08.11.2019, therefore, the same deserves dismissal.

3. Status report has been filed. Learned counsel representing State confirmed the aforesaid factual position. Application under Section 311 Cr.P.C. was filed to recall Dr. Prashant PW-19 to seek clarification. By allowing this application present petitioner will not suffer any prejudice. Present petition is without merits and deserves dismissal.

4. I have considered the arguments and have gone through the record. By filing this petition, petitioner/accused has challenged order dated 08.11.2019 (Annexure P-1) vide which Dr. Prashant PW-19 was recalled by filing application under Section 311 Cr.P.C. Provisions of Section 311 Cr.P.C. runs as under:-



***“Section 311: 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.”*

Therefore, at any stage, the court has power to summon any witness at any stage of inquiry, trial or other proceedings. In the case in hand prosecution filed application under Section 311 Cr.P.C. (Annexure P-8) for recalling Dr. Prashant PW-19 to clarify about the seals affixed by him while preparing MLR of accused. Dr. Prashant stated that he had affixed seal PC but in government record it was seal bearing impression VK. This application was contested by petitioner/accused. However, learned trial Court felt the necessity to clarify the factual position and accordingly allowed the application by passing impugned order dated 08.11.2019. The facts referred above indicate that the testimony of Dr. Prashant PW-19 is based on documents. Recalling of said witness will not harm the interest of petitioner. He will obviously get full opportunity to cross-examine the said witness. At this stage, learned counsel for petitioner confirmed that the witness was recalled for re-examination and was also cross-examined on behalf of petitioner/accused.

In the light of this, I do not find any reason to interfere with the

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impugned order dated 08.11.2019 as the same has rendered infructuous.  
Petition is accordingly declined.

5. Pending miscellaneous application(s), if any, stand disposed of  
accordingly as well.

15.05.2025

(AMARJOT BHATTI)  
JUDGE

Sunil Devi

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No