



115

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

CRR-2317-2025 (O&M)

Date of Decision : 17-09-2025

Gurmeet Sodhi

.....Petitioner(s)

Versus

M/s Ammonia Supply and Another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Viren Sibal, Advocate
Mr. Vivyanshu Goyal, Advocate
for the petitioner.

ANOOP CHITKARA, J. (Oral)

Aggrieved by dismissal of application filed under Section 348 BNSS (corresponding to Section 311 CrPC) read with Section 145(2) of the Negotiable Instruments Act, for summoning of the complainant for further cross-examination, vide order dated 4.8.2025 passed by Judicial Magistrate Ist Class, Chandigarh, the petitioner-accused has come up before this Court under Section 397 CrPC/438 BNSS.

2. The nature of order this Court proposes to pass, which would not affect or prejudice the rights of the complainant, this Court feels that no notice is required to be issued to the complainant-respondents.

3. I have perused the application filed under Section 348 BNSS (corresponding to Section 311 CrPC) read with Section 145(2) of the Negotiable Instruments Act, which is annexed as Annexure P-1 and its reading clearly points out that the only reason given for re-examination of the complainant was death of earlier counsel.

4. Counsel for the petitioner submits that the counsel before the trial Court did not want to show his defence and for that reason, nothing was mentioned in the application. Therefore, the petitioner be permitted to file a fresh application, in which they would explain the reasons for summoning the complainant for further cross-examination that it will not give an opportunity to the complainant to fill up the lacunae.

5. In case this Court allows the application in the present form, it would create a general law that whenever a counsel expires, a right will be accrued in favour of the party to call anybody for re-examination on account of death of counsel, which is not the spirit of the procedural law.

6. However, there is nothing to doubt the statement made by counsel for the petitioner that the counsel before the trial Court instead of giving some skeleton hints about the nature of cross-examination, was absolutely quite, may be afraid of filling in the lacunae by the complainant.

7. Given above, I am in agreement with the arguments raised by Mr. Sibal.

8. Accordingly, the present petition is allowed, the impugned order dated is set aside, with liberty to the petitioner to file a fresh application on or before 30.09.2025 giving sufficient reasons for cross-examination of the complainant. However, it is clarified that on failure of the petitioner to exercise his right by 30.09.2025 itself after Court time is over, by filing fresh application re-examination of the complainant, this order shall stand eclipsed and recalled automatically without any further reference to this Court. It is further clarified that dismissal of the earlier application shall not be taken a ground to dismiss the fresh application, so filed. It is also clarified that the accused shall not seek any unnecessary adjournment in the entire trial. Pending applications, if any, also stand disposed off.

17-09-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO