



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

119-2

**CRM-M-61372-2024
Decided on : 11.08.2025**

Vijay Pal Singh

... Petitioner

Versus

State of Haryana and others

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**PRESENT:** Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking quashing of the impugned order dated 11.11.2024 passed by the learned Additional Sessions Judge, Narnaul, whereby the applications filed by the petitioner under Sections 91 Cr.P.C., 173(8) Cr.P.C., and 311 Cr.P.C. were dismissed.
2. Learned counsel for the petitioner submits that petitioner had moved the said applications with a prayer to summon one Nitin @ Deepak as a witness, on the ground that he was allegedly in possession of a mobile phone video recording capturing a conversation between the complainant and the doctor, namely Dr. Monika Yadav. Learned counsel for the petitioner further submits that the video contains an exchange of talks, wherein doctor told the complainant that accused Sumit had declined the medical advice given by the doctor regarding conducting of surgery.
3. Counsel further submits that such a video recording would have a significant bearing on the merits of the case, and that the testimony of Nitin @ Deepak was essential to bring out the true facts. Based on this assertion, petitioner sought summoning of the said witness and for further investigation to be carried out under Section 173(8) Cr.P.C., as well as production of



documents under Section 91 Cr.P.C.

4. However, upon careful perusal of the pleadings and documents available on record, and in the light of the submissions made by the learned State counsel, it is evident that both Dr. Monika Yadav and complainant have already been examined as prosecution witnesses during the course of the trial. Learned State counsel has also submitted that out of 19 prosecution witnesses, statements of 16, including the material witnesses, have already been recorded.

Moreover, as per complainant, proposed witness Nitin @ Deepak has recorded the conversation, having taken place between Dr. Monika Yadav and the complainant and same he (petitioner herein) requires to prove now. Once both of them (Dr. Monika Yadav and complainant) have already appeared as witnesses in their respective capacity for deposing in support of the prosecution, no new proposition of facts can be put in their mouth which petitioner wishes to prove through the proposed witness Nitin @ Deepak.

5. It is further observed that during the examination of these witnesses, ample opportunity was available with the complainant and prosecution to put all relevant questions. If the complainant or prosecution failed to elicit certain facts or clarifications, the blame cannot now be shifted to the trial process, nor can additional evidence be introduced at such a belated stage, especially when the trial is nearing its conclusion.

6. Moreover, the alleged video recording said to be in the possession of Nitin @ Deepak, even if assumed to exist, does not appear to be of such evidentiary value as would necessitate summoning of a fresh

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witness or reopening of investigation. The very individuals shown in the purported recording have already been examined in Court. Their testimony, subject to cross-examination, carries far greater evidentiary value than an unverified electronic recording, which has not even been produced or authenticated at any prior stage.

7. It is also pertinent to observe that Nitin @ Deepak was never joined as a witness during the course of investigation. No explanation has been offered as to why this individual, who was allegedly in possession of some evidence, was not brought to the notice of the Investigating Officer or produced earlier by the complainant. This casts doubt on the credibility and relevance of the evidence now sought to be introduced.

8. The power under Section 311 Cr.P.C. is indeed wide and can be exercised by the Court at any stage of the trial for summoning any witness in the interest of justice. However, such power is not to be exercised casually or merely to fill in lacunae in the prosecution or defense case. In the present matter, no compelling reason has been shown for invoking this discretionary power, particularly when the trial is substantially near completion.

9 After considering the totality of circumstances, this Court finds that the impugned order dated 11.11.2024, does not suffer from any legal infirmity or perversity. The applications filed by the petitioner were rightly dismissed by the learned trial court. Accordingly, the present petition is found to be devoid of merit and is hereby dismissed.

(SANJAY VASHISTH)
JUDGE

11.08. 2025*rashmi*

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No