IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

136 **CRM-M-60444-2025**

M/s M.C. Pharmaceuticals

....Petitioner

V/s

M/s M.S. Pharmaceutical and another

....Respondents

Date of decision: 11.12.2025

Date of Uploading : 11.12.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Vipan Kumar, Advocate for the respondents.

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SUMEET GOEL, J. (Oral)

1. The present petition, under Section 528 of BNSS, has been filed seeking quashing/setting-aside of the order dated 16.10.2025 passed by the learned Judicial Magistrate First Class, Jalandhar, whereby the application filed by the petitioner under Section 348 BNSS/Section 311 Cr.P.C. for leading additional evidence by summoning an Accountant namely Mr. Anurag Gupta and producing voluminous financial documents pertaining to the period 01.04.2021 to 31.03.2025, has been dismissed.

2. Learned counsel for the petitioner has iterated that the impugned order is manifestly contrary to both law and the material placed on record. Learned counsel has further iterated that the Court below has erred in refusing to summon the said witness and documents which are material for a just fair and complete adjudication of the matter. Learned counsel has further submitted that the application was not belated and the evidence of the complainant had not been formally closed; however the

Court below has failed to correctly appreciate the wide scope of Section 311 Cr.P.C./348 BNSS. Learned counsel has strenuously argued that the Court below has adopted unduly technical and restrictive approach in declining the application. According to learned counsel, the proposed documents, comprising income tax returns, trading and profit and loss accounts, balance sheets, statements of accounts, invoices and G.R. receipts, constitute material/relevant evidence which goes to the root of the case of the complainant. Learned counsel has emphasized that these documents would enable the petitioner to establish the actual nature and volume of business transactions with the report and the same are very much relevant for the proper and just decision of the case. Furthermore, the cross-examination of the complainant concluded only on 10.09.2025 and it was only upon certain admission and contradictions emerging during cross-examination that the necessity of producing the additional documents/record has become perceptible. Learned counsel has further submitted that the power under Section 311 Cr.P.C./348 BNSS is extremely wide and designed to ensure that the truth has emerged. To buttress his arguments, learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court titled as *Rajaram Prasad Yadav vs. State of Bihar and another 2013(3) RCr (Criminal) 726,* to contend that the Court is under a duty to summon any witness whose evidence appears necessary for a just decision of the case. Learned counsel has contended that the Court below misinterpreted and held that it was an attempt to fill lacunae whereas the application was filed bona fide, without delay and before the stage of evidence of the complainant was fully closed. On the strength of aforesaid submissions, the grant of *petition in hand* is entreated for.

3. Learned counsel for the respondents has argued that the present petition is nothing but an abuse of process of law and has been filed with the sole intention to prolong the proceedings before the Court below. Learned counsel has iterated that the impugned order dated 16.10.2025 is a well-reasoned and justified order. Learned counsel has further submitted that after the dismissal of the first application under Section 311 Cr.P.C./348 BNSS, the petitioner has again moved another application for additional evidence which clearly establish the intent to delay the trial and fill lacunae. Furthermore, the documents which are sought to be brought on record by the petitioner were always within his possession of the petitioner. These documents were never placed on record at the time of filing the complaint nor were they produced during examination-in-chief of CW-1. Moreover, the petitioner has failed to furnish any plausible or satisfactory explanation why these documents were withheld earlier and has emphasized that Section 311 Cr.P.C. cannot be used as a device to rectify the weaknesses in the case of the complainant.

4. I have heard learned counsel for the rival parties and have perused the available record.

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 guide-lines 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 controversy arises out of a complaint instituted by the complainant-petitioner under Sections 138 and 142 of the Negotiable Instruments Act alleging that the respondents, who were regular purchasers of pharmaceutical products from the complainant, had issued the cheque in question towards discharge of their outstanding liability. According to the complainant, the cheque, when presented was dishonoured for insufficient funds and despite service of statutory notice, the payment was not made.

The respondents, however, refuted the claim and consistently asserted that the cheque was misused by the complainant. During the pendency of the trial, the complainant entered into the witness box and was examined as CW-1. The trial has progress substantially and the complainant was thoroughly cross-examined on all aspects. It is in this backdrop that the application in hand for additional evidence has been moved seeking to summon his Accountant, Mr. Anurag Gupta and to place on record tax returns, profit and loss accounts, balance sheets, list of debtors and creditors, invoices and various financial documents relating to his own firm for the period 01.04.2021 to 31.03.2025. The records sought to be produced are not newly discovered documents and had never been filed earlier at the time of instituting the complaint or during the evidence of the complainant. After considering the rival contentions, the application was dismissed by the Court below on the ground that the accused-petitioner had failed to satisfy that the proposed evidence of the accountant and the documents sought to be produced are essential for just decision and could not have been produced earlier despite due diligence.

7. As per pleadings of the present case; the documents sought to be introduced are the financial documents of the complainant-petitioner i.e. tax returns, balance sheets, invoices, trading accounts, debtor and creditor lists and similar records maintained by the firm of the complainant-petitioner. These documents were indisputably available with the petitioner at all stages. In such a situation, the burden to explain their earlier non-production becomes much heavier. The explanation furnished by the petitioner that the need arose only after cross-examination cannot be

accepted in light of the nature of documents involved. These are not documents which emerged belatedly nor their relevance was discovered later. In the considered opinion of this Court, their omission during the evidence of the complainant is not a matter of advertence. Although, the power under Section 348 BNSS/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. Section 311Cr.P.C./348 BNSS undoubtedly confers wide and elastic powers upon a Court but yet the powers is not unbridled. It must be exercised with circumspection and only when the proposed evidence is essential for a just decision. In the considered opinion of this Court, the Court below has rightly dismissed the application. No illegality or perversity is found in the impugned order warranting interference by this Court. In the factual *milieu* of the case, the application in hand appears to be an afterthought and lacks *bona fide.* The documents sought to be placed on record were always in the possession of the complainant and cannot claim they were unavailable earlier. The petitioner-complainant was fully cross-examined on 10.09.2025 and the application in hand has been moved on 06.10.2025 i.e. within short interval which clearly supports the contention of the respondent that the same has been filed to fill up the lacuna and to alter the complexion of testimony already recorded. Moreover, the respondents have also produced a copy of another application (copy whereof has been appended as Annexure R-1 with the reply) filed by the petitioner after dismissal of the present one which clearly depicts that the complainant is repeatedly attempting to reopen the evidence and derail the proceedings. Such conduct leads to only one inference i.e. the misuse of process and deliberate delay particularly in a summary-type proceeding under the Negotiable Instruments Act. For interference under Section 528 BNSS, the petitioner must demonstrate that the dismissal of the additional evidence causes prejudice or leads to miscarriage of justice. In the considered opinion of this Court, the Court below has appropriately dealt with the application in hand by dismissing the same.

8. In view of the prevenient ratiocination, it is ordained thus:

(i) The impugned order dated 16.10.2025 passed by the Judicial Magistrate Ist Class, Jalandhar 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.

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

(SUMEET GOEL)
JUDGE

December 11, 2025
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No