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

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Hansa Singh and others

...Petitioners

V/s

State of Punjab and another

...Respondent

Date of decision: 12.12.2025**Date of Uploading : 12.12.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Arshpreet Khadial, Advocate for the petitioners.

SUMEET GOEL, J. (Oral)

1. The petition in hand is a revision petition filed under Section 442 of BNSS laying challenge to order dated 01.10.2025 passed by Additional Sessions Judge-cum-Judge Special Court, Bathinda. Vide the said order, the learned Additional Sessions Judge has dismissed the application under Section 311 Cr.P.C. filed by the accused-petitioners for summoning/recalling five prosecution witnesses for further cross examination.

2. Learned counsel for the petitioners has iterated that the impugned order is contrary to both law and the material available on record and is well within the limitation period. Learned counsel has further iterated that the Court below has erroneously dismissed the application whereby the petitioners sought summoning/recalling of material prosecution witnesses i.e. PW-1 Sandeep Singh, Constable, Punjab Police, PW-5 Kewal Singh, PW-7 Dr. Deep Singh Rattan Mittal, Ex-Medical Officer & Forensic



Science Expert, PW-10 Sandeep Singh Bhatti, DSP City-I, Bathinda (then SHO, P.S. Nathana), PW-12 SI Harbans Singh, the then IO/Incharge PP Bhuchho Mandi. Learned counsel has further submitted that the entire prosecution story hinges on the testimonies of aforesaid five witnesses, whose further cross-examination is essential for a just and proper adjudication of the case. According to learned counsel, the object behind moving the application under Section 311 Cr.P.C. is neither to delay the proceedings nor to fill any lacuna but solely to bring out the truth. Furthermore, the recalling of the these five prosecution witnesses is necessary as well as imperative as their further cross-examination is crucial to clarify material aspects which go to the root of the matter and without such examination, the defence would be gravely prejudiced. Learned counsel has emphasized that Section 311 Cr.P.C. embodies a legislative mandate that no valuable evidence should remain excluded due to inadvertence, mistake or ambiguity in the testimony of witnesses. The power under this provision exists to prevent failure of justice and to ensure completeness of the record. Moreover, the Article 21 of the Constitution guarantees the right to a fair trial which necessarily includes the right to an effective cross-examination and denial of an opportunity to cross-examine material witnesses strikes at the very root of this constitutional protection. Learned counsel has further contended that further cross-examination will not cause any prejudice to the prosecution. Learned counsel has further contended that the Court below has failed to appreciate the true scope of Section 311 Cr.P.C. as the provision confers wide powers on the Court to summon or recall any person at any stage of the trial if his evidence appears



to be essential to the just decision of the case. Learned counsel has further submitted that the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It is argued that the reasoning of the Court below that the petitioners were trying to delay the proceedings is misconceived as the delay, if any, was occasioned only on account of the evasive conduct of the witness (which are sought to be recalled herein). Moreover, the Court below has dismissed the application without properly considering the facts and circumstances of the case. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

3. Since this Court has proceeded to adjudicate upon the *petition in hand*, at the *limine* stage and having regard to the nature of order being passed, this Court does not deem it appropriate to issue notice to the respondents or to call for their reply as no further proceedings or pleadings are required for the adjudication of the *lis* in hand.

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

5. Before further delving into the rival contentions as also the merits of the case in hand, 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 short question that arises for cogitation before this Court is whether the Court below was justified in dismissing the application of the petitioners under Section 311 Cr.P.C. for summoning five witnesses i.e. PW-1 Sandeep Singh, Constable, Punjab Police, PW-5 Kewal Singh, PW-7 Dr. Deep Singh Rattan Mittal, Ex-Medical Officer & Forensic Science Expert, PW-10 Sandeep Singh Bhatti, DSP City-I, Bathinda (then SHO, P.S. Nathana), PW-12 SI Harbans Singh, the then IO/Incharge PP Bhuchio Mandi. The petitioners stand trial in FIR No. 0217 dated 04.12.2023 registered under Sections 302, 34 IPC at Police Station Nathana, District Bathinda. During the course of the trial, all five witnesses mentioned above



appearing for the accused. Subsequently, the petitioners changed their counsel and engaged Sh. G.S. Khadial, Advocate, who moved the application under Section 311 Cr.P.C. asserting that certain material questions regarding delay in FIR, motive, presence and conduct of witnesses and aspects of investigation were not adequately put during earlier cross-examination. The application in hand has been opposed by the prosecution on the ground that the same was filed only to delay the trial. Considering the rival contentions and the available record, the Court below dismissed the application by holding that all witnesses had been duly cross-examined at length, that the PW-1 (complainant) was cross-examined over three dates and change of counsel was no ground to recall the aforesaid witnesses. Furthermore, no specific prejudice has been demonstrated which would justify cross examination of the aforesaid witnesses and the application in hand has been seemingly filed only as a dilatory tactic to fill the lacunas. In the considered opinion of this Court, no justifiable ground has been shown warranting interference by this Court in the revisional jurisdiction. Though Section 311 Cr.P.C. empowers the Court to summon any person as a witness or recall and re-examine any person already examined, if his evidence appears to the Court to be essential for the just decision of the case. But at the same time, this discretion must be exercised judiciously to prevent miscarriage of justice. Furthermore, it is equally settled that the power under Section 311 Cr.P.C. cannot be permitted to be misused for filling up lacunae in the defence.

7. In the present case, it is not disputed that all five witnesses were thoroughly examined and cross-examined. PW-1 alone was cross-



examined over three different dates and the remaining witnesses were also questioned at length. The petitioners have not pointed out any specific omission or contradiction that needs clarification. Furthermore, the petitioners have only made a general claim that “some important questions were not asked,” but in the considered opinion of this Court such vague and unsupported statements cannot justify recalling witnesses. Moreover, a change of counsel is also not a valid or legal ground to seek recall of witnesses. A profitable reference in this regard is made to the judgment rendered by Hon’ble Supreme Court titled as *Neha Begum and others vs. The State of Assam and another*, passed in *Special Leave to Appeal (Crl.) No.3910/2024* which clearly held that mere change of lawyer or broad allegations are not enough to reopen evidence. Allowing witnesses to be recalled at the stage of Section 313 Cr.P.C. would unnecessarily delay the trial and would, in effect, give the accused an opportunity to correct or fill gaps in their defence, which the law does not permit. The right to a fair trial is not one-sided and if the evidence is allowed to be reopened again and again, it will seriously hamper the trial and defeat the purpose of timely justice. In the case in hand, the Court below has exercised its discretion properly and in accordance with law. Thus, the requirement of “*essential for just decision*” under Section 311 Cr.P.C. is not established. Considering the factual *matrix* of the present case, this Court finds no justifiable ground to recall the prosecution witnesses already examined and cross-examined at length. Entertaining application under Section 311 Cr.P.C. at this belated stage would not serve the ends of justice but rather frustrates the mandate of



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speedy trial. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below.

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

(i) The impugned order dated 01.10.2025 passed by the Additional Sessions Judge-cum-Judge, Special Court, Bathinda does not suffer from any illegality, perversity or infirmity warranting interference. The instant revision petition is hereby dismissed.

(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 12, 2025
Ajay

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