



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

**CRM-M-61979-2025
Date of Decision: 06.11.2025**

Varun Singh

..... Petitioner

Versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. K.S. Nalwa, Senior Advocate with
Mr. Vismaad S. Bajwa, Advocate,
Ms. Ashima Attri, Advocate and
Mr. Ashmeet K. Shah, Advocate for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed for quashing of impugned order dated 03.10.2025, wherein learned Additional Chief Judicial Magistrate, Rupnagar has accepted the application filed under Section 311 Cr.P.C. dated 07.05.2025 filed by the prosecution seeking summoning of three additional prosecution witnesses in case FIR No.16 dated 22.03.2024 under Sections 380, 457 of IPC (Section 120-B and 201 IPC added lateron) registered at Police Station Sadar Rupnagar, District Rupnagar.

2. Succinctly the facts of the case are that the FIR in the present case was lodged on the statement of Sukhwinder Singh, Chief Chemists GGSSTP, Rupnagar. It was alleged that on 18.03.2024 at about 9:00 am the coal lab staff found all locks of the main door and strong room in broken condition. All the three locks of Almirah containing the 16 No. samples were also found to be in broken condition. The samples were kept in joint custody in locked almirah in strong room at coal testing Lab



GGSSSTP for onward submission to independent coal testing lab CSIR -Dhanabad. It was alleged that attempt was made to tamper with these 16 No. samples. It was alleged that the coal samples locked jointly in a cold testing laboratory were of great significance and huge financial stakes (in crores) are involved on the test results of these samples and thus, the safety of these samples holds utmost importance. The CCTV recording and one CCTV camera (TP link make) were also found stolen with an intention to misplace the record of testing of samples. Thus, the request was made to register the FIR and take legal action. On registration of the FIR, the investigation commenced. On completion of investigation, challan was presented and on framing of the charges, the trial commenced. During the trial, the prosecution filed an application under Section 311 Cr.P.C. for summoning the prosecution witnesses namely:-

- (i) Navin Lohia (Deputy Chief Chemist)
- ii) Manish Bhatara (Senior Chemist) and
- iii) Ravinder Khanna (Deputy Chief Engineer)

Learned trial Court on hearing both the sides accepted the same vide impugned order dated 03.10.2025. Hence aggrieved, the petitioner, who is one of the accused in the case, has approached this Court impugning the same.

2. It has been contended by learned counsel for the petitioner that in December, 2023 the petitioner joined Quality Services and Solutions Pvt. Ltd. (QSS), a company dealing in coal sample monitoring and was employed at the Noida Office of the company. He was appointed as Assistant General Manager (Operations) at Noida Branch w.e.f. 19.12.2023. The employer company of the petitioner i.e. QSS being in the business of coal sample monitoring, was hired by M/s MDCWL Ltd.



(Monnet Group) who was in contract with PSPCL for supply of coal. The services of the company of the petitioner was hired for representing M/s MDCWL Ltd. before PSPCL w.e.f. 15.02.2024 for witnessing the sampling process of the coal. The petitioner was working from home, as per the instructions of the Company. He submits that the petitioner was informed that the process of coal sampling and its sealing would be conducted on 19.03.2024. As per the prosecution version, the officials of GGSSTP started their duty at around 9:00 am on 18.03.2024 and they found the locks of the main door and strong room of the lab in a broken condition. He submits that it has come on the record that the complaint dated 18.03.2024 was received at the Police Station on 22.03.2024. On 19.03.2024, the process of making samples of the coal were to be forwarded to CSIR, Dhanbad and was to be conducted in the lab of GGSSTP in the presence of their officials. The petitioner travelled to Ropar from Phagwara in the morning of 19.03.2024 to be present during the course of preparation of samples. The enmity process was completed on 19.03.2024 after the approval of the Chief Engineer GGSSTP in the presence of the police official. The samples which were prepared on 19.03.2024 were stored in strong room of GGSSTP, Ropar. He submits that, surprisingly, when the samples were prepared on 19.03.2024, there was no reference of even any attempt of tampering having been made on 17.03.2024. He submits that it is apparent that the petitioner was neither named in the FIR nor he met Arvind Kumar and Pushpinder Pandey on or before 17.03.2024. The prosecution has examined and cross-examined the witnesses from PW-1 to PW-12. It is hereinafter the application was filed under Section 311 Cr.P.C. for summoning the three additional witnesses



who were not even cited as the witnesses by the prosecution. He submits that learned trial Court had allowed the same in a highly casual manner. He submits that PW-2/ASI Kamal Kishore has deposed in his examination-in-chief that on 22.03.2024, he received the complaint EX PW-2/A from Sukhwinder Singh, Chief Chemist and thereafter another detailed application Ex. PW2/A(1). He has stated that the petitioner was nominated as an accused on the basis of disclosure statement of co-accused Arvind Kumar. He submits that this witness has deposed in cross-examination that there was a delay of 04 days in registration of the FIR. He contended that this witness has admitted that the accused persons were not found in any CCTV camera. However, learned trial Court has not taken into consideration these depositions while dealing with the application filed under Section 311 Cr.P.C. He submits that learned Additional Chief Judicial Magistrate has also ignored the evidence of the complainant/Sukhwinder Singh, who appeared before the trial Court as PW-4. It is submitted that on the perusal of the depositions of the prosecution witnesses PW-2, PW-4 and PW-10, it is apparent that the filing of the application under Section 311Cr.P.C. by the prosecution is nothing but an attempt to fill up the lacuna in the prosecution case. It is submitted that as per the law settled, the provisions of Section 311 Cr.P.C. cannot be invoked for filling up the lacuna in the case, however, the same are to be invoked only when the Court is of the opinion that the additional evidence sought to be produced before the Court is just essential for the decision of the case. He relies upon the judgments passed in '**Zahira Habibullah Sheikh Vs. State of Gujarat (2006 3 SCC 374**'; '**Rajaram Prasad Yadav Vs. State of Bihar and another, (2013) 14 SCC 461**';



‘Natasha Singh Vs. CBI, (2013) 5 SCC 741’; ‘Ratanlal Vs. Prahlad Jat, (2017) 9 SCC 340’ and *‘Satbir Singh Vs. State of Haryana (2023) SCC OnLine SC 1086’* and thus, submits that the prosecution by filling the application under Section 311 Cr.P.C. has blatantly made an attempt to fill up the lacuna in its case and thus, the petitioner is seriously prejudiced by the same. He, thus submits that learned trial Court has miserably failed to weight the facts and circumstances of the case on the anvil of the law settled and hence the same being unsustainable in the eyes of law, deserves to be set aside.

3. The Court has heard learned counsel for the petitioner and perused the record. It is deciphered from the facts and circumstances of the case that the FIR in the present case was lodged on the statement of complainant/Sukhwinder Singh. As per the allegation, the theft has been found to be committed in the test laboratory where the locks were found to be broken and the attempt was made to tamper with the samples. CCTV recording and one CCTV camera were also found to be stolen to destroy the evidence. Needless to say that on tampering with the samples in the lab, a huge financial stakes are involved. There is no denial to the fact that the FIR was lodged on statement of Sukhwinder Singh, Chief Chemists GGSSTP, Rupnagar. The witnesses, (i) Navin Lohia (Deputy Chief Chemist), ii) Manish Bhatara (Senior Chemist) and iii) Ravinder Khanna (Deputy Chief Engineer) to be summoned were not initially cited as the witnesses, however, the prosecution found the examination of the witnesses to be summoned essential for the just decision of the case and hence, filed the application for their examination before the Court. The main thrust of the arguments advanced by the counsel for the petitioner is



to the effect that the prosecution has already examined its witnesses and as the same were not sufficient to prove its case, hence, in order to fill up the lacuna the present application under Section 311 Cr.P.C. was filed. There is no denial to the fact that as per the law settled the provisions of Section 311 Cr.P.C. are to be invoked by the Court if the evidence sought to be produced are found essential for the just decision of the case. Every application filed under Section 311 Cr.P.C. cannot be ignored considering the same to be as the filling up the lacuna if the quality evidence is being produced before the Court. The purpose of the trial is in pursuit of the truth. In the judgment relied upon by counsel for the petitioner, '**Rajaram Prasad Yadav Vs. State of Bihar and another (2013) 14 SCC 461**', Hon'ble the Supreme Court had laid down the parameters for invoking the power under Section 311 Cr.P.C., which are as follows:-

“While dealing with an application under Section 311 Cr.P.C. read along with Section 138 of the Evidence Act, we feel the following principles will have to be borne in mind by the Courts:

- i) Whether the Court is right in thinking that the new evidence is needed by it? Whether the evidence sought to be led in under Section 311 is noted by the Court for a just decision of a case?
- ii) The exercise of the widest discretionary power under Section 311 Cr.P.C. should ensure that the judgment should not be rendered on inchoate, inconclusive speculative presentation of facts, as thereby the ends of justice would be defeated.
- iii) If evidence of any witness appears to the Court to be essential to the just decision of the case, it is the power of the Court to summon and examine or recall and re-examine any such person.
- iv) The exercise of power under Section 311 Cr.P.C. should



be resorted to only with the object of finding out the truth or obtaining proper proof for such facts, which will lead to a just and correct decision of the case.

v) The exercise of the said power cannot be dubbed as filling in a lacuna in a prosecution case, unless the facts and circumstances of the case make it apparent that the exercise of power by the Court would result in causing serious prejudice to the accused, resulting in miscarriage of justice.

vi) The wide discretionary power should be exercised judiciously and not arbitrarily.

vii) The Court must satisfy itself that it was in every respect essential to examine such a witness or to recall him for further examination in order to arrive at a just decision of the case.

viii) The object of Section 311 Cr.P.C. simultaneously imposes a duty on the Court to determine the truth and to render a just decision.

ix) The Court arrives at the conclusion that additional evidence is necessary, not because it would be impossible to pronounce the judgment without it, but because there would be a failure of justice without such evidence being considered.

x) Exigency of the situation, fair play and good sense should be the safe guard, while exercising the discretion. The Court should bear in mind that no party in a trial can be foreclosed from correcting errors and that if proper evidence was not adduced or a relevant material was not brought on record due to any inadvertence, the Court should be magnanimous in permitting such mistakes to be rectified.

xi) The Court should be conscious of the position that after all the trial is basically for the prisoners and the Court should afford an opportunity to them in the fairest manner possible. In that parity of reasoning, it would be safe to err



in favour of the accused getting an opportunity rather than protecting the prosecution against possible prejudice at the cost of the accused. The Court should bear in mind that improper or capricious exercise of such a discretionary power, may lead to undesirable results.

xii) The additional evidence must not be received as a disguise or to change the nature of the case against any of the party.

xiii) The power must be exercised keeping in mind that the evidence that is likely to be tendered, would be germane to the issue involved and also ensure that an opportunity of rebuttal is given to the other party.

xiv) The power under Section 311 Cr.P.C. must therefore, be invoked by the Court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumspection. The Court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right.”

4. For resolving the issue involved in the present case, the provision of Section 311 Cr.P.C. is necessary which read as under:

“311. Power to summon material witnesses, 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.”

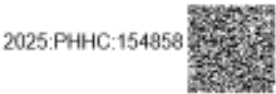


Thus, it is evident that the power under Section 311 Cr.P.C. are sacrosanct in nature and can be invoked at any stage of the trial, if the Court finds that examination of witness sought to be summoned is essential for the just decision of the case.

5. From the bare reading of the provision of Section 311 Cr.P.C., it is apparent that the Court has ample power to re-examine or recall any such person whose evidence appears to be essential to the just decision of the case. However, Hon'ble Supreme Court in the case of **Swapan Kumar Chatterjee vs. Central Bureau of Investigation, (2019) 14 SCC 328** held as under:-

“12. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this Section to even recall witnesses for re-examination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law.”

6. Thus, weighing the facts and circumstances of the present case, on the anvil of the law settled this Court is of the opinion that the evidences sought to be produced by the prosecution, are just essential for the decision of the case. Hence, the Court finds that the evidence of these witnesses should be allowed to be brought on the record, in the best interest of justice. The Court finds that bringing on record these evidences



would not prejudice the interest of the petitioner, thus, the Court finds no infirmity in the impugned order passed. However, it is being clarified that learned trial Court would grant one effective opportunity to each of the 03 witnesses for their examination. The petitioner and the other accused persons would be granted the opportunity to cross-examine these 03 witnesses. Learned trial Court would take into consideration that the prosecution do not unnecessarily prolong the trial.

7. Needless to say that if the trial Court finds that the petitioner is misusing the opportunity granted to him and delaying the trial, it would be at liberty to proceed with the trial in accordance with law.

8. Petition is dismissed in above-mentioned terms.

06.11.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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