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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 25.08.2025*+ CRL.M.C. 5848/2025 & CRL.M.A. 25010/2025 STAY
M/S RACHNA GLOBAL EXCAVATION LTD AND ANR

.....Petitioners

Through: Mr. Amit Tiwari, Mr.
Anand Awasthi, Mr.
Sanket Gupta, Mr. Ayush
Tawar, Ms. Mus Khan,
Mr. M. Kataria, Mr.
Ranveer, Mr. Rishabh,
Advs.

versus

M/S JINDAL STEEL AND POWER LIMITED

.....Respondent

Through: Mr. D.S. Kohli, Mr. Yash
Kadyan, Mr. Yash
Luthra, Advs.**CORAM:-****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT (ORAL)****RAVINDER DUDEJA, J.**

1. This is a petition impugning the order dated 09.07.2025, passed by learned JMFC in case titled as, "M/S Jindal Steel and Power Ltd vs. M/S Rachna Global Excavation Ltd &Anr" in Complaint No. 22730/2016, whereby application filed by the petitioner/accused under Section 311 Cr.P.C for recall of CW-2 for cross-examination has been dismissed.



2. Learned Counsel for the petitioner submits that the dispute arises out of an agreement between the Petitioners, who held mining rights in Mozambique through their subsidiary “Velde,” and the Respondent, a steel manufacturer. Under the agreement, the Respondent paid the Petitioners ₹34 crores as advance for transfer of rights to enable mining of coking coal for steel production. Subsequently, Velde was sold to the Respondent, but despite payments, the Respondent claims it was unable to obtain coal. The Petitioners, however, contend that no legally enforceable debt exists since the Respondent undertook mining itself, and the transaction stood satisfied. Cheques were issued by the petitioners when the respondent stated that they were not able to mine the coking coal, those cheques were dishonoured, the Respondent filed a complaint under Section 138 of the NI Act, alleging liability for refund on account of unsatisfactory coal supply.

3. It is further submitted that CW-2, the Respondent’s key witness, has already been extensively cross-examined, but certain critical aspects remain unexplored, namely: (a) discrepancies between representations made and actual reserves, as reflected in reports of Jindal Steel and Power (Mauritius) Ltd., (b) the annual returns of JSPL showing Velde as a downstream subsidiary of the Respondent; and (c) geological reports pointing to possible misrepresentation. The Petitioners argue that unless CW-2 is recalled under Section 311 Cr.P.C. for cross-examination on these issues, grave prejudice will be caused to their defence. Reliance is placed on the Supreme Court’s



judgment in ***Rajender Prasad v. Narcotic Cell*** (1999) 6 SCC 110 to support the recall application.

4. *Per contra*, learned counsel for the Respondent, submits that CW-2 was extensively cross-examined by three different counsels representing the Petitioners on multiple occasions, i.e., 17.07.2015 by Counsel Mr. A.R. Gupta, 11.09.2015 by Counsel Mr. Vijay Agarwal, and 18.10.2016 & 19.12.2016 by Counsel Mr. Naveen Goyal Advocate (Annexure P-3). On 20.12.2016, the cross-examination of CW-2 was concluded, and on the very same day, the complainant's evidence was closed and the statement of the accused under Section 313 Cr.P.C. was recorded. It is further submitted that despite the conclusion of complainant's evidence in 2016, the Petitioners continued to prolong the proceedings by filing repeated applications under Section 254 Cr.P.C., and by changing as many as five counsels between 2016 and 2022, without ever moving any application for recall of CW-2.

5. It is further submitted that on 01.04.2022, a new counsel for the Petitioners appeared, and the Trial Court specifically recorded that no further witness remained to be examined, and the defence evidence stood closed, whereafter the matter was fixed for final arguments. However, it is submitted, instead of advancing arguments, the Petitioners preferred a revision petition wherein stay was granted, but subsequently failed to pursue the said revision, leading to imposition of costs. The Revisional Court, vide order dated 20.03.2025 in Cr.



Rev. No. 76/2022, upheld the Trial Court's order declining the Petitioners' request to examine additional witnesses or produce further documents, holding that such request was irrelevant to the trial and made only with an ulterior motive to delay proceedings in a matter pending for more than a decade. The Revisional Court on 21.08.2025 concluded that no interference was necessitated and accordingly dismissed the revision as being devoid of merits. In support of these submissions, reliance has been placed upon **AG v. Shiv Kumar Yadav and Ors.**, CrI. Appeal Nos. 1187-1188/2015 and **Sushil Ansal v. State of NCT of Delhi**, CrI. M.C. 2107/2021.

Analysis and Conclusion:

6. The Court has carefully considered the rival submissions advanced by the learned counsel for both parties, as well as the record of proceedings and documents filed.

7. The primary issue for determination is whether the Petitioners have made out a case for recall of CW-2 under Section 311 Cr.P.C. It is an admitted position that CW-2 was already extensively cross-examined by three different counsels for the Petitioners on multiple occasions between 2015 and 2016. The Petitioners thereafter changed counsel repeatedly, and only after several years sought to recall CW-2 for further cross-examination when the trial is concluded and now the matter is listed for pronouncement of judgment.



8. Section 311 Cr.P.C. vests a discretionary power with the Court to summon or recall witnesses, but such discretion must be exercised judiciously and sparingly. The object of this power is to ensure that the Court has the benefit of all material evidence for a just decision of the case, and not to allow a party to protract proceedings indefinitely. In the present case, the Petitioners' grounds for recalling CW-2 do not demonstrate any new or essential aspect that was incapable of being raised during the earlier cross-examinations. Thus, the Trial Court was justified in rejecting the application.

9. In **Satbir Singh v. State of Haryana**, 2023 INSC 786, the Supreme Court referred to the decision in **Harendra Rai v. State of Bihar**, 2023 SCC OnLine SC 1023, wherein a three-Judge Bench held that Section 311 of the CrPC should be invoked only when it is "essential for the just decision of the case."

10. The Trial Court, by its order dated 09.07.2025, dismissed the application under Section 311 Cr.P.C. observing that no substantial ground was made out to recall CW-2, particularly in view of the repeated opportunities already afforded. The reasoning of the Trial Court is neither perverse nor contrary to settled principles of law. On the contrary, it is consistent with the settled law that the process of criminal trial should not be indefinitely prolonged at the instance of one party. The Petitioners' reliance upon **Rajender Prasad v. Narcotic Cell** (supra) is misplaced in the facts of the present case where petitioner has already availed repeated opportunities to cross examine



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the witness extensively and the application has been filed at a belated stage after the conclusion of trial. Therefore, the dismissal order reflects a judicious exercise of discretion.

11. The discretionary power under Section 311 Cr.P.C. cannot be invoked mechanically, and the Petitioners have failed to establish that recalling CW-2 at this belated stage is essential for a just decision of the case. On the contrary, repeated opportunities, multiple cross-examinations, and prolonged delay militate against such indulgence. Accordingly, the impugned order dated 09.07.2025, as affirmed by the Revisional Court on 21.08.2025, does not warrant interference.

12. In view of the above facts and circumstances, the present petition is dismissed.

RAVINDER DUDEJA, J

AUGUST 25, 2025/na

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