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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ CRL.M.C. 7717/2025 & CRL.M.A. 32279/2025 STAY
DEEPAK BHANDARIPetitioner

Through: Mr. Harmanpreet Singh Kohli, Mr.
Manmeet Singh, Mr. Madhav Kumar,
Advocates.

versus

VINOD SALUJARespondent

Through:

71

+ CRL.M.C. 7718/2025 & CRL.M.A. 32281/2025 STAY
DEEPAK BHANDARIPetitioner

Through: Mr. Harmanpreet Singh Kohli, Mr.
Manmeet Singh, Mr. Madhav Kumar,
Advocates.

versus

VINOD SALUJARespondent

Through:

72

+ CRL.M.C. 7719/2025 & CRL.M.A. 32283/2025 STAY
DEEPAK BHANDARIPetitioner

Through: Mr. Harmanpreet Singh Kohli, Mr.
Manmeet Singh, Mr. Madhav Kumar,
Advocates.

versus

VINOD SALUJARespondent

Through:



CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
% **03.11.2025**

CRL.M.A. 32280/2025, CRL.M.A. 32282/2025 and CRL.M.A. 32284/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CRL.M.C. 7717/2025, CRL.M.C. 7718/2025 & CRL.M.C. 7730/2025

1. The present petitions have been filed seeking the setting aside of the impugned order dated 22.08.2025 vide which the trial court allowed the section 311 CRPC application of the respondent to recall Naresh Bhandari as a witness on behalf of the respondent, in CC NI ACT/1420/2022, CC NI ACT/495/2022, and CC NI ACT/2111/2021 titled as “Deepak Bhandari v. Vinod Saluja”
2. Learned counsel for the petitioner submits that the Trial Court has erred in allowing the application filed by the respondent/accused under Section 311 Cr.P.C. for recalling the witness, namely, Naresh Bhandari, without due application of judicial mind. It is submitted that vide CC NI ACT/1420/2022, CC NI ACT/495/2022, and CC NI ACT/2111/2021, the petitioner has instituted complaints against the respondent/accused, and during the pendency of these matters, the respondent sought to recall the said witness, who is the brother of the complainant, purportedly to prove certain transactions between the complainant and the respondent. The Trial



Court, vide impugned order dated 22.08.2025 Annexure P-1, allowed the said application observing *inter alia* that the name of this witness was disclosed by the accused at the stage of framing of notice under Section 251 Cr.P.C., wherein the accused allegedly stated that the cheque in question was given along with a sample agreement to Mr. Naresh Bhandari and that summoning the said witness was in line with the defence of the accused.

3. It is vehemently submitted that the Trial Court has incorrectly recorded the said observation as no such statement was ever made by the accused at the stage of framing of notice under Section 251 Cr.P.C., a copy of which is annexed as Annexure P-3. It is further submitted that the said witness was sought to be recalled only to fill up lacunae in the defence case and that there was no transaction of any loan amount between the parties. Learned counsel further relies upon Annexure P-9 to submit that the respondent has misled the Trial Court by wrongly asserting that Mr. Naresh Bhandari is the Power of Attorney Holder of the complainant, which is factually incorrect. Hence, it is urged that the impugned order dated 22.08.2025 allowing the recall of the said witness, is unsustainable and deserves to be set aside.

4. Upon consideration of the submissions advanced on behalf of the petitioner and perusal of the impugned order dated 22.08.2025, this Court finds no infirmity or illegality in the decision of the Trial Court allowing the application under Section 311 Cr.P.C. filed by the respondent/accused to recall the witness, Mr. Naresh Bhandari.

5. It is evident from the record that the Trial Court has exercised its discretion judiciously and in furtherance of the cause of justice. The object of Section 311 Cr.P.C. is to enable the Court to summon or recall any



witness, if his evidence appears to be essential for a just decision of the case. The power under this provision is wide and intended to ensure that the truth is brought before the Court.

6. In **Natasa Singh v. CBI** (2013) 5 SCC 741, the Supreme Court held that the object of Section 311 CrPC is to enable the Court to discover the truth and render a just decision by obtaining all relevant facts and proper proof thereof, and that the power must be exercised judiciously and not arbitrarily or to fill any lacuna in the case of either party. The Court emphasized that recalling or summoning of a witness should only be permitted when such evidence is essential for the just decision of the case, while ensuring that the opposite party is given an opportunity of rebuttal. It was further reiterated that a fair trial is the cornerstone of criminal jurisprudence, encompassing the rights of the accused, the victim, and society, and that denial of a fair opportunity to adduce or challenge evidence would amount to a violation of the right to a fair trial guaranteed under the Constitution.

7. 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 of the Apex Court, held that Section 311 of the CrPC should be invoked only when it is “essential for the just decision of the case.”

8. Since Naresh Bhandari was allegedly present at the time of handing over of the payments by Respondent/accused to the Petitioner/complainant, his testimony would be material for adjudicating the real controversy between the parties and for enabling the Court to arrive at a just and fair conclusion. Whether or not the accused had mentioned the name of this



witness or the alleged transaction at the stage of framing of notice under Section 251 Cr.P.C. is immaterial at this stage. The words used in Section 311 Cr. PC are 'at any stage'. Thus power under Section 311 Cr. PC can be exercised at any stage including the stage of final arguments provided the testimony of the witness sought to be examined is essential for the just decision of the case.

9. Furthermore, the Trial Court has also taken note of the procedural chronology, that though the defence evidence was earlier closed and the matter was listed for final arguments, the accused subsequently moved the present application seeking recall of the said witness, explaining his relevance to the defence. The Court, after considering the record and the submissions, found justification to allow such recall in the interest of justice.

10. The probative value of the witness's testimony shall be tested by the Trial Court at an appropriate stage, and allowing his examination shall not in any manner prejudice the petitioner's case. On the contrary, disallowing the examination of a material witness could result in miscarriage of justice.

11. Accordingly, this Court finds no ground to interfere with the impugned order dated 22.08.2025. The Trial Court has rightly exercised its discretion under Section 311 Cr.P.C. to permit the respondent to examine the said witness. The petitions, being devoid of merit, are therefore dismissed.

RAVINDER DUDEJA, J

NOVEMBER 3, 2025/na