

23.03.2026
Court No.42
Item No.13
Sudipta

CRR 954 of 2026

**M/s. Agros Impex (India) Pvt. Ltd.
Vs.
State of West Bengal & Ors.**

Mr. Sabir Ahmed
Mr. Shourjyo Mukherjee
Mr. Vishwarup Acharyya
Ms. Anindita Chattopadhyay

... for the petitioner.

Mr. Anirban Tarafder
Mr. Soham Bose

... for the opposite party no.2.

1. Present petition has been filed challenging the order dated 7th February, 2026 whereby the application filed by the petitioner under Section 311 of the Cr.P.C. for recalling of PW 2 for the purpose of cross-examination was rejected. The petitioner who is the accused company had by this application sought permission to recall PW2, a bank official, for the purpose of cross-examination for exhibiting the demand draft no.840970 dated 23rd December, 2006 and to prove the relevant documents pertaining to the said demand draft. It is pertinent to mention here that the demand draft was already in the record and simply marked.

2. Learned counsel for the petitioner submits that the earlier petitioner no. 1 company was represented by accused no. 2 and 3 and they did not properly defend the company as their interest had been transferred to the petitioner company from the year 2014. Learned counsel for the petitioner submits that the present directors of the company came to know of the present proceedings only in the year 2023. Learned counsel submits that

for the proper adjudication of the matter in dispute, further cross-examination of PW 2 is necessary for complete disposal of the case.

3. Learned counsel for the opposite party no.2 has vehemently denied the same. Learned counsel submits that the present complaint was filed in 2007. By list of dates placed on record, learned counsel for the opposite party no.2 has highlighted the point that already it had been 18 years and the accused persons had taken several opportunities which were never utilized. It has been submitted that the present proceedings are only initiated to further delay. Learned counsel has further submitted that in fact the document sought to be produced are not relevant at all. It has further been submitted that this is an interlocutory order and in any case revision is not maintainable. Learned counsel in support of his contention has placed reliance upon Apex Court decision in **Girish Kumar Suneja Vs. CBI** reported in **(2017) 14 SCC 809**. Learned counsel has, therefore, prayed for rejection of the petition.

4. The Court has considered the submissions. Section 311 Cr.P.C. confers discretion upon the court to summon or recall any witnesses at any stage if the evidence is necessary for complete adjudication of the matter in dispute. The courts have time and again emphasized that this discretion has to be exercised liberally but at the same time it cannot be allowed to be used as a tool to plug the loopholes or to delay the matter. As far as the maintainability is concerned, the Court considers that since the impugned order has put a finality to the application under Section 311 of the Cr.P.C., the same is amenable to the

revisional jurisdiction. The objection as to the fact that the document sought to be produced are not relevant can be seen by the learned Trial Court at the time of final adjudication of the matter in dispute. Any observation made by the court on this issue at this time would be pre-judging the issue which would be detrimental to both the parties.

5. Hence, without going into the relevance of the documents sought to be produced in question, the documents pertaining to demand draft no.840970 dated 23rd December, 2006 be produced along with the Bankers' Book Evidence Act by the petitioner before the learned Trial Court.

6. Learned Trial Court shall take the same on the record on being tendered and will put and exhibit mark on the demand draft and the relevant document. However, merely putting exhibit would not mean that these documents have become admissible per se. The admissibility and relevance of these documents has to be tested by the learned Trial Court at the time of final adjudication of the matter in dispute.

7. Thus, keeping the question of admissibility and relevance of the documents open, the petition is disposed of with the above directions.

8. In case such documents are tendered by summoning the bank official, the opposite party / complainant shall have a right to cross-examine such bank official. However, it should be the responsibility of the petitioner to produce such witness and shall not seek any adjournment for summoning bank official.

9. Parties may move an appropriate application before 18th April, 2026 i.e. the date fixed for issuing summons to the bank official so that witness would be produced and examined and cross-examined on 18th April, 2026.

10. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)