IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 3116 of 2026

Sanjay Kumar Singh, aged about 58 years, son of Kamleshwar Singh, resident of Jai Prakash Nagar, Bariatu Road, P.O.-Booty More, P.S.-Sadar, Dist.-Ranchi, State-Jharkhand

.... Petitioner

Versus

The State of Jharkhand

…. Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

…..

For the Petitioner : Mr. Amit Kr. Das, Sr. Advocate
: Mr. Sankalp Goswami, Advocate
: Mr. Saurav Kumar, Advocate
For the State : Mr. Achyut Keshav, Sr. AAG
: Mr. Baibhaw Gahlaut, AC to Sr. AAG
: Ms. Oishi Das, AC to AG

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By the Court:-

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of B.N.S.S., 2023 with the prayer to quash/set aside the order dated 24.07.2026 passed by the learned Judicial Magistrate 1st Class, XXVIII, Ranchi in G.R. Case No. 2531 of 2001 arising out of Kotwali P.S. Case No. 469 of 2001 in connection with M.C.A. Case No. 3928 of 2026, whereby and where under, the learned Judicial Magistrate 1st Class, XXVIII, Ranchi has allowed the application filed by the prosecution under Section 311 read with Section 91 of Cr.P.C.

3. The brief fact of the case is that the prosecution filed a petition on 29.06.2026 when the case was fixed for argument contending therein that the prosecution wants to exhibit nine documents, the list of which has been mentioned in the said petition but the learned Judicial Magistrate 1st Class, XXVIII, Ranchi without examining the relevancy of the documents sought to be exhibited or without mentioning the name of the witness to be examined by the prosecution has just allowed the petition dated 29.06.2026 filed by the prosecution with a direction to adduce evidence.

4. It is submitted by the learned Senior Advocate appearing for the petitioner by relying upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Tripura vs. Panna Ahmed** reported in **2026 SCC OnLine SC 960**, that therein, the Hon'ble Supreme Court of India in paragraph nos.15 and 16 has *inter alia* observed that the stage at which the application under Section 311 of Cr.P.C. is filed is of considerable significance and the delay in filing the petition under Section 311 of Cr.P.C. is required to be satisfactorily explained. It is further submitted by the learned Senior Advocate appearing for the petitioner that therein, the Hon'ble Supreme Court of India has also reiterated the settled principle of law that

power under Section 311 of Cr.P.C. cannot be exercised merely to fill up lacunae in the defence case.

5. Learned Senior Advocate appearing for the petitioner next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Swapan Kumar Chatterjee vs. Central Bureau of Investigation** reported in **(2019) 14 SCC 328** and submits that in paragraph no.11 of which, the Hon'ble Supreme Court of India has reiterated the settled principle of law that power under Section 311 of Cr.P.C. should be invoked by the Court only to meet the ends of justice and the power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection and when the prosecution evidence has been closed long back and the reasons for non-examination of the witness earlier are not satisfactory, the summoning of the witness at belated stage would cause great prejudice to the accused and should not be allowed.

6. Learned Senior Advocate appearing for the petitioner next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **RatanLal vs. Prahlad Jat & Ors.** reported in **(2017) 9 SCC 340**, wherein the same principle has been reiterated.

7. Learned Senior Advocate appearing for the petitioner further relied upon the judgment of the Hon'ble

Supreme Court of India in the case of **Rajaram Prasad Yadav vs. State of Bihar & Anr.** reported in **(2013) 14 SCC 461**, and submits that therein, in paragraph no.17, the principles to be borne in mind while dealing with the application under Section 311 of Cr.P.C. along with Section 138 of Evidence Act has been laid down as under:-

> *"17.1. 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?*
>
> *17.2. The exercise of the widest discretionary power under Section 311 CrPC should ensure that the judgment should not be rendered on inchoate, inconclusive and speculative presentation of facts, as thereby the ends of justice would be defeated.*
>
> *17.3. 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.*
>
> *17.4. The exercise of power under Section 311 CrPC 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.*
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> *17.5. 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.*
>
> *17.6. The wide discretionary power should be exercised judiciously and not arbitrarily.*
>
> *17.7. 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.*
>
> *17.8. The object of Section 311 CrPC simultaneously imposes a duty on the court to determine the truth and to render a just decision.*
>
> *17.9. 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.*

17.10. Exigency of the situation, fair play and good sense should be the safeguard, 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.

17.11. 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.

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

17.13. 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.

17.14. The power under Section 311 CrPC 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."

8. Learned Senior Advocate appearing for the petitioner next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Natasha Singh vs. Central Bureau of Investigation (State)** reported in **(2013) 5 SCC 741**, wherein, also the settled principle of law regarding Section 311 of Cr.P.C. has been discussed.

9. Learned Senior Advocate appearing for the petitioner also relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Vijay Kumar vs. State of Uttar Pradesh & Anr.** reported in **(2011) 8 SCC 136**, wherein, in paragraph no. 17, the Hon'ble Supreme Court of India has discussed the settled principle of law relating to Section 311 of Cr.P.C.

10. Learned Senior Advocate appearing for the petitioner lastly relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Umar Mohammad & Ors. vs. State of Rajasthan and Analogous Cases** reported in **(2007) 14 SCC 711**, wherein, in the facts of that case when a petition to recall the P.W.1 nine months after his deposition was made and the same was dismissed by the trial court, the Hon'ble Supreme Court of India observed that the same has rightly been dismissed. It is next submitted by the learned Senior Advocate appearing for the petitioner that in this case, this is the third attempt made by the prosecution to adduce further evidence that too a vague one and the learned trial court without considering the relevancy of the documents sought to be adduced further when the case was twice fixed for argument on the merit of the case ought to have taken note of the fact that the petition has been filed only to linger the litigation which has been registered in the year

2001 that is more than two decades ago. Hence, it is submitted that the prayer as prayed for by the petitioner in this criminal miscellaneous petition be allowed.

11. Learned counsel for the State on the other hand vehemently opposes the prayer of the petitioner as made in this criminal miscellaneous petition.

12. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds that the Judicial Magistrate 1st Class, XXVIII, Ranchi has failed to consider the relevancy of the documents sought to be adduced as evidence and it has also failed to consider that the petition dated 29.06.2026 does not reveals as to which witness is to be examined or in what method the documents are to be marked exhibits but without considering these relevant aspect has mechanically allowed the said petition dated 29.06.2026, which in the considered opinion of this Court is not in accordance with law and continuation of the said order dated 24.07.2026 will amount to abuse of process of law.

13. Accordingly, the order dated 24.07.2026 passed by the learned Judicial Magistrate 1st Class, XXVIII, Ranchi in G.R. Case No. 2531 of 2001 arising out of Kotwali P.S. Case No. 469 of 2001 in connection with M.C.A. Case No. 3928

of 2026 being not sustainable in law is quashed and set aside.

14. The matter is remanded to the learned Judicial Magistrate 1st Class, XXVIII, Ranchi to pass fresh order in accordance with law.

15. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 6th October, 2026
AFR/Gunjan/-

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