



133

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

**CRM-M No.6890 of 2026
Date of Decision: 06.02.2026**

Dharampal

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kartik Khicher, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for quashing of impugned order dated 22.01.2026 passed by the learned Sessions Judge, Hisar, whereby the application dated 12.01.2026 under Section 311 Cr.P.C./348 BNSS for summoning Sales Manager, Orion Hyundai, Hisar along with relevant record in case bearing FIR No.1101, dated 14.11.2022, under Sections 34 & 302 of IPC, registered at Police Station Barwala, District Hisar (Section 304 IPC deleted and Section 201 IPC added) was dismissed. Further prayer has been made for staying the proceedings before the learned trial Court during the pendency of the present petition.

2. It has been contended by learned counsel for the petitioner that the petitioner before this Court is the complainant, who lodged the



case bearing FIR No.1101, dated 14.11.2022, under Sections 34 & 302 of IPC, registered at Police Station Barwala, District Hisar (Section 304 IPC deleted and Section 201 IPC added). He has submitted that after the murder of the nephew of the petitioner, the accused, namely, Manoj has dumped the car used in the offence in the Garage and the same was recovered from there later on. He has submitted that to find the owner of the car, the summoning of the Manager of Orion Hyundai, Hisar, from where the car was sold, is essential for the just decision of the case. An application under Section 311 Cr.P.C. was filed, however the same has been illegally declined by the learned trial Court only on the premise that the prosecution evidence was closed about 06 months ago. He has submitted that the provision of Section 311 Cr.P.C. are sacrosanct in nature and the application filed be allowed and the impugned order be set aside.

3. Notice of motion to official respondent No.1 at this stage.

4 On asking of the Court, Mr. Tanuj Sharma, AAG, Haryana appears and accepts notice on behalf of respondent No.1-State. He has also supported the contentions raised by learned counsel for the petitioner that the summoning of Manager of Orion Hyundai, Hisar is essential for the just decision of the case.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, this Court finds that the gravity of the offence cannot be ignored where the trial pertains to a murder case. The car in question alleged has



been used in the offence committed. The ownership of the car could not be established and thus, the application under Section 311 Cr.P.C. has been filed.

7. However, in view of the law settled, it is apparent that the Hon'ble Supreme Court has laid down that the power under Section 311 Cr.P.C (Section 348 of BNSS) should be invoked only to meet the ends of justice. The power should be exercised for strong and valid reasons and it should be exercised with great caution and circumspection.

Section 348 of BNSS (Section 311 Cr.P.C) is reproduced hereunder:-

“348. Power to summon material witness, 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.”

8. From the bare reading of the provision of Section 348 of BNSS (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 for the just decision of the case. Reliance in this regard can be placed in case of **Swapan Kumar Chatterjee Vs. Central Bureau of Investigation** 2019(14) SCC 328, wherein it has been 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.”

9. Though the evidence of the prosecution is already closed, however, keeping in view the law settled and the provisions of Section 311 Cr.P.C., this Court finds that the trial is in the pursuit of finding the truth, thus, the impugned order dated 22.01.2026 passed by the learned Sessions Judge, Hisar is hereby set aside.

10. The trial Court concerned is directed to grant one effective opportunity to the prosecution for examining the Manager, Orion Hyundai, Hisar. Needless to say that the accused would have the right to cross examine the summoned witness.

11. In view of the above position, the present petition stands disposed of.

06.02.2026

rittu

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

(RAJESH BHARDWAJ)
JUDGE