



**In the High Court for the States of Punjab and Haryana
at Chandigarh**

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CRM-M-7621-2025 (O&M)
Date of Decision:- 19.03.2026

Paramjeet Singh ... Petitioner
Versus
Lakhbir Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present:- Mr. Munish Kumar Garg, Advocate for the petitioners.

SUBHAS MEHLA, J. (Oral)

1. Prayer in this petition filed under Section 528 of BNSS, 2023, is for quashing the order dated 24.01.2025 (Annexure P-20) passed by learned Sub-Divisional Judicial Magistrate, Tohana in complaint case No.4 of 2019, titled as 'Paramjeet Singh vs Lakhbir Singh and others' dated 28.01.2019 (Annexure P-1), vide which the application filed by the complainant under Section 311 Cr.P.C., for summoning the witnesses namely Dr. Javed Ahmed and Mandeep Singh, has been dismissed.
2. Learned counsel for the petitioner contended that an application under Section 311 Cr.p.C was filed by petitioner before trial Court to summon witnesses namely Dr.Javed Ahmed and injured Mandeep Singh, but the same was dismissed illegally vide impugned order dated 24.01.2025; that on 22.08.2024, Dr. Javed Ahmed, was present in the Court but he could not be examined as he had not brought the original record and he was bound-down to appear on the next date of hearing i.e. 11.09.2024, however, the case was transferred to some other Court and summons were never issued by the



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concerned Ahlmad to Dr. Javed Ahmed and vide order dated 26.09.2024 (Page 74), the pre-charge evidence was closed. The statement of the injured witness and the expert is essential for the just and proper adjudication of the controversy involved in the present case. Learned counsel requested that one more effective opportunity be given to the petitioner to examine these witnesses, otherwise he will suffer an irreparable loss.

3. Mr. Rajinder Kumar Singla, Advocate has put in appearance on behalf of the respondents and has filed *Vakalatnama*, which is taken on record. He has opposed the contentions raised by learned counsel for the petitioner by submitting that several opportunities were granted to the complainant to adduce evidence; however, he failed to ensure the presence of his witness, and consequently, the Court closed the evidence by order. .

4. Heard.

5. In **Zahira Habibullah Sheikh (5) and Anr. v. State of Gujarat and Others**, 2006(2) RCR (Criminal) 448: (2006) 3 SCC 374, this Court has considered the concept underlining under Section 311 as under:-

"The object underlying Section 311 of the Code is that there may not be failure of justice on account of mistake of either party in bringing the valuable evidence on record or leaving ambiguity in the statements of the witnesses examined from either side. The determinative factor is whether it is essential to the just decision of the case. The section is not limited only for the benefit of the accused, and it will not be an improper exercise of the powers of the court to summon a witness under the section merely because the evidence supports



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the case of the prosecution and not that of the accused. The section is a general section which applies to all proceedings, enquiries and trials under the Code and empowers the Magistrate to issue summons to any witness at any stage of such proceedings, trial or enquiry. In Section 311 the significant expression that occurs is "at any stage of any inquiry or trial or other proceeding under this Code". It is, however, to be borne in mind that whereas the section confers a very wide power on the court on summoning witnesses, the discretion conferred is to be exercised judiciously, as the wider the power the greater is the necessity for application of judicial mind".

6. Taking into consideration the peculiar facts and circumstances of the present case that witness i.e. Dr. Javed Ahmed was present in the Court on that day but he could not be examined as he had not brought the original record and said witness was bound-down to appear on the next date of hearing; however, he failed to appear before the Court; he is a material witness; so, the present petition is disposed of with a direction that one more opportunity is to be granted to the petitioner to examine only witness namely Dr. Javed Ahmed, subject to the cost of Rs.2000/- to be deposited in District Legal Services Authority concerned. The trial Court is also directed to make efforts to secure the presence of the witness who had previously appeared and was bound down, but subsequently failed to appear.

19.03.2026
Geeta

(SUBHAS MEHLA)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No