



CRM-M-8738-2026

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

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CRM-M-8738-2026

Vikas Gupta

....Petitioner

V/s

State of Punjab and another

....Respondents

Date of decision: 18.05.2026**Date of Uploading : 19.05.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Rajan Singh Dadwal, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
Mr. Karandeep Singh, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking setting aside of the order dated 22.01.2026 passed by the learned Judicial Magistrate First Class, Jagraon whereby the application moved by the petitioner under Section 348 BNSS (corresponding to Section 311 Cr.P.C.) for summoning of the Record Keeper of Deep Hospital, Ludhiana along with the medical record of deceased - complainant Sudesh Rani as well as the certified copy of divorce petition titled as Parveen vs. Vikas Gupta; in a case arising out of FIR No.238 dated 16.11.2019 registered under Sections 451 and 323 IPC at Police Station City Jagraon, District Ludhiana Rural; has been dismissed. Alternatively, a prayer has also been made for permitting the petitioner/prosecution to lead the additional evidence sought through the aforesaid application.



2. The factual matrix, as culled out in the petition in hand, is that FIR in question was registered on the statement of complainant Sudesh Rani, mother of the petitioner, alleging that respondent No.2-Parveen Gupta, who is the estranged wife of the petitioner had entered her house on 24.09.2019 and caused injuries to her. It has been specifically alleged in the FIR that after the occurrence, the complainant was initially taken to Civil Hospital, Jagraon and, thereafter, admitted in Deep Hospital, Ludhiana and discharged on 26.09.2019. During the pendency of the trial, the complainant expired on 30.05.2023 before her examination could be recorded before the Court. It is the case of the petitioner that despite specific averments in the FIR regarding treatment of the complainant at Deep Hospital, Ludhiana, the investigating agency has failed to collect and place on record the relevant medical record and discharge summary. Consequently, an application under Section 348 BNSS was moved before the Court below seeking summoning of the Record Keeper of Deep Hospital, Ludhiana along with the treatment record of deceased complainant Sudesh Rani and also the certified copy of judgment passed in a petition under Section 13 of the Hindu Marriage Act to demonstrate that respondent No.2 had been residing separately since the year 2015. The said application was dismissed by the Court below vide impugned order dated 22.01.2026 primarily on the ground that the prosecution has already availed sufficient opportunities and the application was an attempt to fill up lacunae in the prosecution case.

3. Learned counsel for the petitioner has iterated that the impugned order suffers from patent illegality as the evidence sought to be produced goes to the root of the matter and is essential for a just decision of



complainant is directly connected with the injuries allegedly suffered by her in the occurrence in question and such evidence cannot be ignored merely on technical considerations. According to learned counsel, reasoning assigned by the Court below is contrary to the settled legal position governing Section 311 Cr.P.C., which empowers the Court to summon or recall any witness at any stage of the proceedings if such recall appears to be essential for a just decision of the case. Learned counsel has further emphasized that Section 311 Cr.P.C. embodies a legislative mandate that no valuable evidence should remain excluded due to inadvertence, mistake or ambiguity in the testimony of witnesses. To buttress his arguments, learned counsel has placed reliance upon the judgments titled as *Jatinder Singh Vs. State of Punjab and another*, 2025(4) RCR (Criminal) 571; *Neelam Vs. Veena*, 2024(1) RCR (Criminal) 727; *Gulzar Singh and others Vs. State of Punjab and another*, 2024(2) RCR (Criminal) 370; *Vijay Kumar Vs. State of U.P. and another*, 2011(4) RCR (Criminal) 208 and *V.N. Patil Vs. K. Niranjana Kumar and others*, 2021(2) RCR (Criminal) 310 to contend that the powers under Section 311 Cr.P.C./Section 348 BNSS are wide and can be exercised at any stage if the evidence appears essential for the just adjudication of the case. On the strength of aforesaid submissions, it is prayed that the impugned order passed by the Court below be set aside and the application in hand be allowed in the interest of justice.

4. Raising submission in tandem with the reply dated 12.05.2026 by way of affidavit of Kulwant Singh, PPS, DSP, Jagraon, District Ludhiana (Rural), learned State counsel has submitted that the petition has moved the application in hand to summon the concerned official of Deep Hospital,



to produce certified copy of the judgment of his divorce taken from the accused/respondent No.2. Learned State counsel has fairly contended that the medical treatment record of the mother of the petitioner namely Sudesh Rani from Deep Hospital, Ludhiana and certified copy of judgment in the divorce proceedings are material pieces of evidence necessary for just adjudication of the trial and Court below has erred in declining the prayer.

5. Learned counsel appearing for respondent No.2 has opposed the petition in hand and has submitted that the prosecution has already availed numerous opportunities and permitting additional evidence at this stage would amount to filling up lacunae after the death of the complainant. It has been further contended that the application in hand was belated and intended only to prolong the proceedings.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It would be apposite to refer herein to a judgment passed by this Court in case titled as ***Karamjit Singh vs. State of Punjab and another: 2024 NCPHHC 24178***; relevant whereof reads as under:-

“8.4 As an epilogue to the above rumination, the following principles emerge:

(I) The broad gamut for exercising power by a criminal trial Court under Section 311 of Cr.P.C. are as follows:

(i) The prime factor for considering a plea under Section 311 of Cr.,P.C. is as to whether such evidence “appears to be essential to the just decision of the case.”

(ii) Section 311 of Cr.P.C. can be invoked by a criminal trial Court even when cross-examination of a witness has earlier been foreclosed by a Court order. Such exercise of power by the Court cannot be construed as the concerned Court recalling/reviewing its own order.

(iii) Section 311 of Cr.P.C. empowers a criminal trial Court to even allow further examination/cross-examination of a witness at instance of the prosecution/accused.



(iv) *A criminal Court is well within, its judicial discretion, to summon any person as a witness at any stage of proceedings/trial etc. till such Court is seized of the matter.*

(v) *A criminal trial Court may exercise power under Section 311 of Cr.P.C. on an application made by a party to lis or on its own volition.*

(vi) *Successive application(s) for summoning same witness for examination/re-examination is not debarred but such a plea deserves to be dealt with exercising a higher degree of circumspection.*

(II) *No straight jacket formulae can be enumerated regarding mode, manner and extent of exercise of power under Section 311 of Cr.P.C by a criminal trial Court as every case has its own unique facts/circumstances. It is neither possible nor pragmatic to lay down any such exhaustive guide-lines as every case is sui generis in terms of factual conspectus.*

(III) *Needless to say that exercise of power under Section 311 of Cr.P.C. by a criminal trial Court should be undertaken by according cogent and lucid reasons, in accordance with basic principles of our criminal jurisprudence, for such exercise of its power.”*

8. Section 348 BNSS, corresponding to Section 311 Cr.P.C., confers very wide powers upon the Court to summon any person as witness or recall and re-examine any witness if his evidence appears to the Court to be essential for the just decision of the case. The object of the provision is to ensure that the truth is brought before the Court and no failure of justice occurs on account of any inadvertent omission or defect in the evidence adduced by either side.

9. In the present case, the FIR itself contains a specific recital that the complainant has remained admitted in Deep Hospital, Ludhiana after the alleged occurrence. The treatment record and discharge summary sought to be summoned by the petitioner are, therefore, directly connected with the occurrence in question. Merely because the investigating agency omitted to collect the said record during investigation cannot be a ground to ignore such evidence, particularly when the complainant has since expired and the



medical record may assume more significance for appreciating the allegations levelled in the FIR. The Court below, while dismissing the application, has proceeded mainly on the premise that the prosecution has already availed numerous opportunities to lead prosecution evidence and furthermore cannot be permitted to fill up lacunae in the case. In the considered opinion of this Court, the approach adopted by the Court below is legally unsustainable. Furthermore, the evidence sought to be adduced has direct bearing on the controversy involved and for the Court in arriving at the truth and hence the power under Section 311 Cr.P.C./Section 348 BNSS ought to be exercised liberally. It is a trite law that Section 311 of Cr.P.C. confers very wide powers upon the Court to summon any person as a witness, examine any person present in Court or recall and re-examine any witness already examined at any stage of trial or other proceeding if such evidence appears to be essential for a just decision of the case. The object of the provision is to enable the Court to discover the truth and render a just decision by ensuring that all relevant facts are brought before the Court. The provision clearly reflects that the power of recall can be exercised at any stage of the proceedings and the only test which the Court is required to apply is whether the evidence sought to be brought on record is necessary for the just decision of the case. Thus, the requirement of “*essential for just decision*” under Section 311 Cr.P.C. is established in the case in hand.

In the instant case, prejudice would indeed be caused to petitioner herein, unless afforded an effective opportunity to tender certified copy of divorce petition titled as Parveen vs. Vikas Gupta and to summon the record keeper of Deep Hospital, Model Town, Ludhiana alongwith



Court, the Court below has erred in holding that the prosecution having availed several opportunities and thus, disentitled from leading additional evidence. Moreover, mere grant of earlier opportunity(s) cannot, by itself, be an embargo against exercise of powers under Section 348 BNSS where the evidence sought to be produced is material for proper adjudication of the matter. However, at the same time, this Court cannot lose sight of the fact that the matter pertains to an FIR of the year 2019 and the proceedings have already remained pending for a considerable period of time. Accordingly, costs, which ought to be veritable and real time in nature, needs to be imposed upon the petitioner.

10. For the foregoing reasons, in order to meet the ends of justice and to arrive at a just decision of the case, this Court deems it appropriate to grant two effective opportunities to the petitioner for summoning of the Record Keeper of Deep Hospital, Ludhiana along with the medical record of deceased complainant namely Sudesh Rani as well as the certified copy of divorce petition titled as '*Parveen vs. Vikas Gupta*' in a case arising out of FIR No.238 dated 16.11.2019 registered under Sections 451 and 323 IPC at Police Station City Jagraon, District Ludhiana Rural.

11. Accordingly, the present petition is allowed and the impugned order dated 22.01.2026 passed by the Judicial Magistrate First Class, Jagraon, dismissing the application filed by the petitioner under Section 311 Cr.P.C., is set aside. This, however, will be subject to payment of costs of ₹10,000/- to be deposited with the District Legal Services Authority, Ludhiana within a period of two weeks from today. The payment of costs, shall be a condition precedent, for for summoning of the Record Keeper of



complainant namely Sudesh Rani as also certified copy of divorce petition titled as ‘*Parveen vs. Vikas Gupta*’, as directed hereinabove.

12. The learned trial Court shall permit the petitioner/prosecution to summon the concerned official from Deep Hospital, Ludhiana along with the treatment record/discharge summary pertaining to deceased complainant Sudesh Rani and also permit production of certified copy of judgment passed in the matrimonial proceedings, in accordance with law.

13. It is, however, directed that no unnecessary adjournment shall be granted to the petitioner and the additional evidence shall be concluded expeditiously, preferably within three effective opportunities.

14. Pending miscellaneous applications, if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

May 18, 2026
Ajay

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