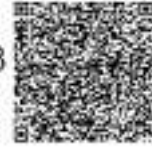


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-19549-2026 (O&M)

Date of decision: 9th April, 2026

M/s Krishan Kumar Narinder Kumar through
its prop. Gagan Goyal

...Petitioner

Versus

M/s Amit Kumar Akshit Kumar through
its partner Amit Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishwajit Bedi, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

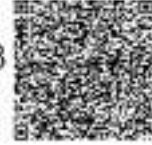
CRM-15504-2026

Allowed as prayed for.

Main case

Prayer in this petition is made by the petitioner for quashing of order dated 23.03.2026 passed by the court of learned Judicial Magistrate First Class, Nabha in criminal complaint bearing No. COMA-174-2023, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) titled as ***M/s Amit Kumar Akshit Kumar vs. M/s Krishan Kumar Narinder Kumar***, whereby an application moved by the petitioner under Section 348 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for recalling

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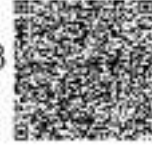


CW-1 Amit Mittal i.e. complainant for his further cross examination, had been dismissed.

2. Brief facts relevant for the purpose of disposal of this petition are that the petitioner is facing trial for commission of offence punishable under Section 138 of the N. I. Act in the aforementioned complaint. The respondent-complainant had been examined. Subsequently, the petitioner-accused moved an application for conducting further cross examination of the respondent-complainant on the grounds that previously, he was represented by some other Advocate. He had engaged a new counsel at the stage of recording his statement under Section 313 of Cr.P.C. (*which is pari materia with Section 351 of BNSS*). His newly engaged counsel on going through the record has come to know that some relevant questions had not been asked to the complainant during his cross examination and some important suggestions had also not been given. It is submitted that the petitioner had come to know that apart from the complaint as filed by him, the respondent-complainant had filed some other complaints as well and the same were required to be put to the complainant and for that purpose, the further cross examination of the complainant was necessary. The learned trial Court after considering the contentions raised by both the sides declined the prayer made by the petitioner by passing the impugned order. Feeling aggrieved from the same, the present petition has been filed.

3. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as while passing the same,

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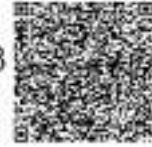


the learned trial Magistrate ignored the fact that further cross examination of the respondent-complainant was must for just decision of the case and for bringing out the truth on record. No prejudice whatsoever is going to be caused to the complainant if his further cross examination is done. With these broad submissions, it is urged that the impugned order is liable to be set aside, the petition deserves to be accepted and that the application moved by him deserves to be allowed.

4. This Court has heard the rival submissions made by learned counsel for the petitioner at considerable length.

5. On a perusal of record, it is revealed that on 04.12.2024, notice of accusation was served upon the petitioner. He had pleaded not guilty to the notice and had claimed trial. In order to afford opportunity of being heard and to conduct cross examination of the witnesses of the complainant, the matter had been adjourned to 11.02.2025. The petitioner availed several effective opportunities for the purpose of cross examination of the complainant and it was concluded only on 22.01.2026 i.e. after a period of more than one year from 04.12.2024. Thereafter, the complainant had closed its evidence and when the matter was at the stage of recording statement of accused under Section 351 of BNSS, then the aforementioned application under Section 348 of BNSS had been filed by the present petitioner for re-examination of the witness. No doubt, the powers under Section 348 of BNSS (*which corresponds to Section 311 of Cr.P.C.*) can be exercised by the Court at any stage of trial to recall or re-examine any witness, if the examination of such

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witness is considered to be indispensable for just decision of the case. However, it is well settled proposition of law that an application under section 348 of BNSS must not be allowed only to fill up lacunas in the case of the prosecution, or of the defence or to give an unfair advantage to the opposite party.

6. In *Swapan Kumar Chatterjee vs. Central Bureau of Investigation, 2019 (2) Scale 654*, Hon'ble Supreme Court has held that the power conferred under Section 311 of Cr.P.C. should be invoked by the Court only to meet the ends of justice and for strong and valid reasons and it should be exercised with great caution and circumspection. Though, Section 311 Cr.P.C. confers vast discretion upon the Court and is expressed in the widest possible terms, the discretionary power under the said section can be invoked only for the ends of justice. The provisions of this section should be exercised consistently with the provisions of the Code and the principles of criminal law. The discretionary power conferred under Section 311 of Cr.P.C. has to be exercised judicially for reasons stated by the Court and not arbitrarily or capriciously. Reference in this context can be made to *Vijay Kumar vs. State of U. P. : (2011) 8 SCC 136* as well as to the judgments rendered by this Court in *Bhag Singh vs. Madan Lal Walia : 1998 (3) Civil Court Cases 597(1)(P&H)* and *Joginder Singh vs. Devinder Kumar : 1999(1) Civil Court Cases 202 (P&H)*.

7. On going through the record, it transpires that the petitioner had availed sufficient and effective opportunities for the purpose of conducting

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cross examination of the complainant. The only reason for which his re-examination is sought is that some questions could not be asked to him and some suggestions could not be given. This cannot be stated to be sufficient and reasonable ground for allowing further cross examination of the complainant. In view of the discussion as made above and also in view of the above discussed position of law, it has been noticed that no reasonable ground for allowing the prayer as made by the petitioner has been made out. As such, the learned trial Court has committed no error in declining the aforesaid prayer made by the petitioner. Accordingly, finding no merit in the present petition, the same is dismissed.

[MANISHA BATRA]
JUDGE

9th April, 2026
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |