

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

2026.PHHC.074082



CRR No. 1049 of 2020 (O&M)

Hanish Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

| Sr. No. | Particulars                                                                              | Details        |
|---------|------------------------------------------------------------------------------------------|----------------|
| 1       | The date when the judgment is reserved                                                   | 11.05.2026     |
| 2       | The date when the judgment is pronounced                                                 | 13.05.2026     |
| 3       | The date when the judgment is uploaded on the website                                    | 13.05.2026     |
| 4       | Whether only operative part of the judgment is pronounced or full judgment is pronounced | Full           |
| 5       | The delay, if any, of the pronouncement of full judgment, and reasons thereof            | Not applicable |

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohd. Salim, Advocate  
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

Mr. Navneet Jindal, Advocate  
for respondent No. 2/complainant.

MANISHA BATRA, J.

1. The present criminal revision petition has been preferred by the petitioner assailing the judgment dated 02.06.2020 passed by the Court of learned Additional Sessions Judge, Mansa in Criminal Revision No.01 of 2020 titled as ***“Prem Kumar Versus Hanish Kumar”***, whereby the revision petition preferred by respondent No.2/complainant Prem Kumar was allowed, the order dated 08.01.2020 passed by the learned Chief Judicial Magistrate, Mansa was

set aside and the complainant was permitted to examine Handwriting and Document Expert under Section 246(6) Cr.P.C.

2. Brief facts of the case are that respondent No.2/complainant instituted a criminal complaint against the petitioner alleging commission of offences punishable under Sections 467 and 471 IPC on the allegations that the petitioner had prepared a forged affidavit dated 12.12.2005 in the name of one Brahmi Devi, who had allegedly expired earlier, and thereafter used the said forged affidavit as genuine. Charges were framed against the petitioner on 22.01.2018, to which he pleaded not guilty and claimed trial. During the pendency of the complaint, the complainant initially moved an application under Section 311 Cr.P.C. seeking permission to summon a sale deed dated 01.08.2012 along with examination of handwriting expert for comparison of signatures appearing thereon. The said application was dismissed by the learned Chief Judicial Magistrate, Mansa vide order dated 01.12.2017. Thereafter, after framing of charge and at the stage of post-charge evidence, the complainant moved an application dated 15.02.2018 under Section 246(6) Cr.P.C. seeking permission to examine Handwriting and Document Expert Sh. H.S. Mander for comparison of the disputed signatures/thumb impressions appearing on the affidavit in question with the admitted signatures/handwriting of the accused. The learned Chief Judicial Magistrate, Mansa dismissed the aforesaid application vide order dated 08.01.2020 by observing that the complainant had already availed numerous opportunities to conclude evidence and had even closed his evidence on 15.11.2017. The learned trial Court further observed that the handwriting expert had not been cited in the list of witnesses and the

complainant had failed to explain as to how the said witness could be treated as a “remaining witness” under Section 246(6) Cr.P.C.

3. Aggrieved against the aforesaid order, respondent No.2/complainant preferred Criminal Revision No.01 of 2020 before the learned Additional Sessions Judge, Mansa. The learned revisional Court vide judgment dated 02.06.2020 allowed the revision petition and set aside the order passed by the learned trial Court. It was observed by the learned revisional Court that the learned trial Court had failed to appreciate the distinction between the earlier application moved under Section 311 Cr.P.C. and the subsequent application under Section 246(6) Cr.P.C. It was noticed that the earlier application pertained to proving sale deed dated 01.08.2012, whereas the subsequent application related to examination of handwriting expert qua the affidavit dated 12.12.2005, which formed the foundation of the complaint. The learned revisional Court further held that the expression “remaining witnesses” occurring in Section 246(6) Cr.P.C. deserved liberal interpretation and non-mentioning of the expert in the list of witnesses could not by itself disentitle the complainant from leading relevant evidence. Aggrieved from the order passed by the revisional Court, the petitioner/accused has filed the present revision petition.

4. It is argued by the learned counsel for the petitioner that the impugned order passed by the learned revisional Court is not sustainable in the eyes of law as while passing the same, the Court concerned ignored the fact that the complainant had already availed sufficient opportunities to lead evidence and the repeated applications moved by him were only intended to delay the proceedings. It has further been argued that once the earlier application under Section 311 Cr.P.C. had already been dismissed, the subsequent application

under Section 246(6) Cr.P.C. seeking substantially similar relief was not maintainable and deserved to be dismissed. Hence, it is urged that the present petition deserves to be allowed the impugned order is liable to be quashed.

5. *Per contra*, learned counsel appearing for respondent No.2/complainant has submitted that the earlier application under Section 311 Cr.P.C. pertained to an altogether different document i.e. sale deed dated 01.08.2012, whereas the present application was with regard to examination of handwriting expert regarding the forged affidavit dated 12.12.2005, which forms the very basis of the criminal complaint. Learned counsel has further relied upon the judgment of the Hon'ble Supreme Court in ***Sayeeda Farhana Shamim Versus State of Bihar and another, 2008 (3) RCR (Criminal) 147*** to contend that a supplementary list of witnesses can be entertained and additional witnesses may be permitted to be examined if such evidence advances the cause of justice. Hence, it is urged that there is no illegality of infirmity in the impugned order and the petition is liable to be dismissed.

6. This Court has heard the rival submissions.

7. The principal controversy involved in the present revision petition is whether the complainant could have been permitted to examine Handwriting and Document Expert under Section 246(6) Cr.P.C. despite the fact that the said witness had not been mentioned in the original list of witnesses and despite dismissal of an earlier application under Section 311 Cr.P.C. A careful perusal of the record reveals that the earlier application under Section 311 Cr.P.C. related to summoning of sale deed dated 01.08.2012 and comparison of signatures appearing thereon. The learned trial Court itself had observed while dismissing the said application that the controversy in the complaint pertained to

alleged forgery of affidavit dated 12.12.2005 and not the aforesaid sale deed. Therefore, dismissal of the earlier application cannot operate as a bar against examination of handwriting expert regarding the disputed affidavit which constitutes the gravamen of the allegations levelled in the complaint. The learned trial Court dismissed the subsequent application primarily on the ground that the handwriting expert had not been cited in the list of witnesses and the complainant had already availed numerous opportunities. However, the learned trial Court failed to appreciate the true scope of Section 246(6) Cr.P.C., which permits examination of remaining witnesses after framing of charge.

8. The Hon'ble Supreme Court in *Sayeeda Farhana Shamim's case (supra)* has categorically held that the power of the Magistrate under Sections 244 and 246(6) Cr.P.C. is not fettered and that supplementary list of witnesses can be entertained if the same advances the cause of justice. The Hon'ble Supreme Court further held that the expression "remaining witnesses" should receive a liberal interpretation and cannot be confined only to witnesses named in the original list appended with the complaint. At the same time, the Hon'ble Apex Court cautioned that such discretion must be exercised judiciously and not in a manner so as to harass the accused or prolong the proceedings unnecessarily. In the considered opinion of this Court, the facts of the present case squarely fall within the principles laid down by the Hon'ble Supreme Court in the aforesaid judgment. The evidence sought to be produced by respondent No.2/complainant directly pertains to the alleged forged affidavit dated 12.12.2005 and is clearly relevant for proper adjudication of the controversy. The application cannot be said to be wholly mala fide or intended merely to harass the accused. The learned revisional Court has rightly distinguished the

earlier application under Section 311 Cr.P.C. from the present application under Section 246(6) Cr.P.C. and has correctly held that the complainant could not be denied an opportunity to lead material evidence merely because the handwriting expert had not been cited in the original list of witnesses.

9. The order passed by the learned trial Court reflects a hyper-technical approach which resulted in shutting out relevant evidence. Criminal proceedings are ultimately aimed at discovery of truth and relevant evidence essential for just adjudication ought not to be excluded merely on procedural considerations unless serious prejudice is demonstrated. No such prejudice has been shown to have been caused to the petitioner herein. This Court finds that the learned Additional Sessions Judge, Mansa has appreciated the controversy in its correct perspective and has exercised revisional jurisdiction in accordance with law. The impugned order dated 02.06.2020 neither suffers from perversity nor from any jurisdictional infirmity warranting interference by this Court.

10. In view of the discussion made above, this Court is of the considered opinion that the present petition is devoid of any merit and deserves dismissal. Accordingly, the same is dismissed. The impugned order dated 02.06.2020 passed by the learned Additional Sessions Judge, Mansa is affirmed and upheld. The learned trial Court shall proceed further with the complaint in accordance with law.

13.05.2026

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*