

2026:PHHC:015704



CRM-M-51158-2018 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(244)

CRM-M-51158-2018 (O & M)

Date of Decision: 03.02.2026

(Through V.C.)

Shahbaz Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rishabh Gupta, Advocate, for the petitioner.

Ms. Navreet K. Barnala, AAG, Punjab.

Ms. Ruchi Sekhri, Advocate,
for the applicant (in CRM-2364-2019).

JASJIT SINGH BEDI, J. (Oral)

CRM-2364-2019

This is an application under Section 482 Cr.P.C. for impleading the accused-applicant/Gulzar Singh as respondent No.2 in the array of the parties.

For the reasons mentioned in the application, the same is allowed. The accused-applicant/Gulzar Singh is impleaded as respondent No.2 in the array of the parties.

This application is disposed of.

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The prayer in the present petition under Section 482 Cr.P.C. is

SUKHPREET KAUR
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I attest to the accuracy and
integrity of this document
chandigarh
for quashing of the impugned order dated 18.10.2018 (Annexure P-6)

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whereby the application under Section 311 Cr.P.C. in FIR No.97 dated 02.11.2011 registered at Police Station Ghaine Ke Banger, District Gurdaspur, has been dismissed.

2. The brief facts of the case are that an FIR No.97 dated 02.11.2021 under Sections 326, 323 and 34 IPC, Police Station Ghanie Ke Bangar, Batala, District Gurdaspur, came to be registered against Harjot Singh, Gulzar Singh, Avtar Singh and Gurmeet Singh alongwith an unidentified person at the instance of the petitioner. The report under Section 173 Cr.P.C. was presented on 10.06.2014 alongwith a list of witnesses against one accused-Avtar Singh whereas the remaining accused persons were declared proclaimed offenders. After the arrest of the remaining accused, a supplementary challan was presented on 03.08.2014 alongwith another list of witnesses.

3. The said witnesses, namely, SI Jagir Singh, SI Sukhwinder Singh, HC Kulwinder Singh, ASI Chander Parkash, ASI Mohit Kumar and HC Joginder Singh were, however, not examined on account of an oversight on the part of the prosecution because there were two lists of witnesses attached with the case file, one with the main challan dated 10.06.2014 and one with the supplementary challan dated 03.08.2014.

4. An application under Section 311 Cr.P.C. was moved by the complainant-petitioner to summon the aforementioned official witnesses, they being material witnesses and relating to the arrest memo and the recovery of weapon used in the commission of offence. A copy of the

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application is attached as Annexure P-4 to the present petition. The said application under Section 311 Cr.P.C. came to be dismissed vide order dated 18.10.2018 (Annexure P-6). It is this order which is under challenge in the present petition.

5. The learned counsel for the petitioner contends that the official witnesses relating to the recovery of the weapon, arrest memo and duly mentioned in the list of witnesses attached to the supplementary challan were not examined on account of an oversight/omission on the part of the prosecution. Therefore, the application was moved under Section 311 Cr.P.C. which has been dismissed only on account of the fact that the case was one under the “action plan cases”. The Court ought not to have closed the prosecution evidence by order and even if it had done so, ought to have allowed the application under Section 311 Cr.P.C. As the witnesses are all official in nature, they can be examined and cross-examined within a day. No irreparable harm would be caused to the accused as no new case is being sought to be set up. The accused persons cannot take advantage of a mistake/omission on the part of the prosecution. Therefore, an opportunity be granted to the prosecution to examine witnesses as named in the application under Section 311 Cr.P.C.

6. The learned counsel for the State and the counsel for the accused-respondent No.2/Gulzar Singh contend that the prosecution availed almost 25 effective opportunities but failed to conclude its evidence. Later, the evidence of the prosecution was closed by order of the Court on



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11.10.2018 and allowing the instant application would amount to review the said order. Therefore, the present petition is liable to be dismissed.

7. I have heard the learned counsel for the parties.

8. A perusal of the facts and circumstances would reveal that the persons sought to be summoned as witnesses in the application under Section 311 Cr.P.C. were duly named in the supplementary challan submitted by the prosecution. On account of an oversight, the said witnesses, all official in nature and pertaining to the recovery of weapon and arrest memos, could not be examined. The Trial Court closed the evidence on account of the prosecution availing numerous opportunities stating that it was a part of the “action plan cases”. Vide order dated 20.12.2018, this Court categorically observed that the Trial Court ought to have adopted coercive steps to examine the said witnesses and the prosecution cannot be non-suited by violating the principles of natural justice.

9. Apparently, there is no attempt on the part of the prosecution to fill-up any lacuna or change the nature of the prosecution case. The only endeavour is to bring on record the material evidence. As such, no irreparable harm would be caused to the accused inasmuch as they would have ample opportunities to cross-examine the witnesses now sought to be summoned. In fact, in the interest of justice and fairness, it would be just expedient to permit them to be examined under Section 311 Cr.P.C.

10. In view of the above, I find considerable merit in the present petition. Therefore, the impugned order dated 18.10.2018 (Annexure P-6) is

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set aside. The application under Section 311 Cr.P.C. (Annexure P-4) is allowed. The Trial Court is directed to conclude the examination/cross-examination of the witnesses mentioned in the application within a period of 14 days from the next date of hearing fixed before it. The Trial Court is requested to conclude the Trial within a period of 12 weeks thereafter.

- 11. This petitions stands disposed of accordingly.
- 12. The pending application(s), if any, shall stand disposed of accordingly.

February 03, 2026
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No