

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

2026.PHHC.074323



CRM-M-25990-2019 (O&M)

Prem Kumar ...Petitioner

Versus

Hanish Kumar ...Respondent

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. Navneet Jindal, Advocate
for the petitioner.

Mohd. Salim, Advocate
for the respondent.

MANISHA BATRA, J.

1. The present petition has been filed under Section 482 Cr.P.C. (which corresponds to Section 528 of BNSS, 2023) seeking quashing of order dated 01.12.2017 (Annexure P-1), passed by the Court of learned Chief Judicial Magistrate, Mansa in Criminal complaint bearing No. COMI/483/2014, titled as **Prem Kumar v. Hanish Kumar**, filed under Sections 420, 467, 468 and 471 of IPC, whereby the application filed by the complainant-petitioner under Section 311 Cr.P.C. for leading additional evidence had been dismissed.

2. Brie facts of the case relevant for the purpose of disposal of this petition are that the aforementioned complaint was filed by the petitioner with the allegations that the respondent-accused had purchased a stamp paper in the name of his deceased grandmother Brahmi Devi and thereafter prepared a forged affidavit dated 12.12.2005 in the name of Satya Devi @ Neelam Rani by affixing her thumb impression despite the fact that she was an educated lady and used to sign documents. It was further alleged that on the basis of the said forged affidavit, false municipal record was prepared and the respondent got his name entered in the record of Nagar Council, Mansa in respect of the disputed property.

3. During the course of pre-charge evidence, the petitioner moved an application under Section 311 Cr.P.C. for summoning and proving transfer deed No.2714 dated 01.08.2012 allegedly executed by the respondent in favour of his wife and sons on the basis of the aforesaid municipal record. The learned trial Court, after considering the application and reply filed by the accused, dismissed the said application vide order dated 01.12.2017. The learned Magistrate observed that the complaint was instituted in the year 2014; the certified copy of the transfer deed had already been obtained from the office of Sub Registrar on 15.07.2015; the complainant had sufficient opportunity to lead evidence but failed to do so and the proposed document had no direct concern with the allegations pertaining to the affidavit dated 12.12.2005. The trial Court further observed that the signatures of the accused were already available on record for comparison purposes and the application appeared to have been moved only to prolong the proceedings.

4. The petitioner, thereafter, preferred a criminal revision before the learned Sessions Court, Mansa challenging the aforesaid order. However, during the pendency of the revision petition, learned counsel for the revisionist made a statement withdrawing the revision petition with liberty to approach this Court under Section 482 Cr.P.C. Consequently, the learned Additional Sessions Judge, Mansa dismissed the revision petition as withdrawn vide order dated 30.04.2019 and vacated the interim stay earlier granted.

5. Learned counsel for the petitioner has argued that the proposed transfer deed was a material piece of evidence as the same allegedly reflected the use of forged municipal record by the respondent-accused and would have materially assisted the Court in arriving at a just conclusion. It has further been argued that the trial Court adopted a hyper-technical approach while rejecting the application under Section 311 Cr.P.C. and failed to appreciate that the additional evidence sought to be produced was necessary for the just decision of the complaint.

6. Per contra, learned counsel for the respondent has argued that there is no illegality or infirmity in the impugned order as the same is well reasoned and based on true appreciation of facts of the case. Hence, it is urged that the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. It is well settled proposition of law that an application under section 311 Cr.P.C. (*which is pari materia with 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. ***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 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 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)*.

9. In the present case, the learned trial Court has recorded a categorical finding that the complainant had obtained the certified copy of the transfer deed from the office of the Sub Registrar as far back as on 15.07.2015, yet no effort was made to place the same on record during the course of pre-charge evidence. The complaint itself pertains to the alleged forged affidavit dated 12.12.2005 and the consequential municipal entries. The learned trial Court rightly observed that the transfer deed executed subsequently did not directly relate to the core issue involved in the complaint. The Court also noticed that the complainant had already availed sufficient opportunities to conclude his evidence and the application had been moved only after closure of pre-charge evidence. This Court does not find any perversity, illegality or patent

jurisdictional error in the reasoning recorded by the learned Chief Judicial Magistrate while dismissing the application under Section 311 Cr.P.C. The order reflects proper application of mind and cannot be said to have resulted in miscarriage of justice warranting interference in exercise of inherent jurisdiction. Even otherwise, the petitioner had initially availed the remedy of revision before the learned Sessions Court and subsequently chose to withdraw the same with liberty to approach this Court. Merely because such liberty was granted would not entitle the petitioner to seek re-appreciation of the discretionary order passed by the trial Court when no manifest illegality is made out. The inherent powers of this Court are meant to prevent abuse of the process of law or to secure the ends of justice and not to substitute the discretion exercised by the trial Court in procedural matters, particularly when the order impugned does not suffer from any apparent illegality. Accordingly, finding no merit in the present petition, the same is hereby dismissed. The impugned order dated 01.12.2017 passed by the learned Chief Judicial Magistrate, Mansa is upheld.

13.05.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No