



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

124

CRM-M-24751-2026

Date of Decision: 08.05.2026

ANAYAT KHAN

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY.

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. M.S. Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present petition is to the order dated 16.04.2026, vide which application filed by the petitioner under Section 311 Cr.P.C., to recall a witness for re-examination has been dismissed.

2. Learned counsel for the petitioner contends that the trial Court has wrongly dismissed the application in question, without taking into consideration that PW-1 Sunil Kumar, who was the shadow witness, got examined on 25.04.2025 i.e. prior to the examination of PW-9, the Investigating Officer, who testified on 30.10.2025, wherein video Ex.DX was played, that he wants to put to PW-1, it being an essential evidence.

3. Learned counsel for the State submits that the trial Court has rightly passed the impugned order and there is no merit in the instant petition, thus the same may be dismissed.

4. Heard.

5. Before proceeding further, it is expedient to refer to Section 311

Cr.P.C., which reads thus:



“311. Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

6. The utilization of powers under Section 311 of Cr.P.C. by the Court serves a specific purpose, which is not to patch up the gaps in the evidence of the prosecution or bolster the case of defence, but rather to unearth the pertinent facts or obtain solid evidence necessary for proper adjudication in the case. The latter part of the section clearly enunciates that any person can be recalled or re-examined, as long as the Court is satisfied that his evidence is essential for a just decision of the case and there might not be miscarriage of justice. Illuminating the provision of Section 311 Cr.P.C. and powers with the Court, Hon’ble the Supreme Court in the case of **Godrej Pacific Tech. Limited vs. Computer Joint India Limited**, (2008) 11 SCC 108, observed that, “The object underlying Section 311 of the Code is that there may not be failure of justice on account of mistake of either party in bringing the valuable evidence on record or leaving ambiguity in the statements of the witnesses examined from either side. The determinative factor is whether it is essential to the just decision of the case. The section is not limited only for the benefit of the accused, and it will not be an improper exercise of the powers of the court to summon a witness under the section merely because the evidence supports the case of the prosecution and not that of the accused. The section is a general section which applies to all proceedings, enquiries and trials under the Code and empowers the



Magistrate to issue summons to any witness at any stage of such proceedings, trial or enquiry. In Section 311 the significant expression that occurs is “at any stage of any inquiry or trial or other proceeding under this Code”. It is, however, to be borne in mind that whereas the section confers a very wide power on the court on summoning witnesses, the discretion conferred is to be exercised judiciously, as the wider the power the greater is the necessity for application of judicial mind.”

7. In context of Section 311 Cr.P.C., Hon’ble the Supreme Court in the case of **Iddar vs. Aabida**, (2007) 11 SCC 211, observed that, “It is couched in the widest possible terms and calls for no limitation, either with regard to the stage at which the powers of the Court should be exercised, or with regard to the manner in which it should be exercised. It is not only the prerogative but also the plain duty of a Court to examine such of those witnesses as it considers absolutely necessary for doing justice between the State and the subject. There is a duty cast upon the Court to arrive at the truth by all lawful means...”

8. Hon’ble the Supreme Court in **Mohanlal Shamji Soni vs. Union of India**, 1991 Supp (1) SCC 271 laid down the ratio that, “The principle of law that emerges from the views expressed by this Court in the above decisions is that the Criminal Court has ample power to summon any person as a witness or recall and reexamine any such person even if the evidence on both sides is closed and the jurisdiction of the Court must obviously be dictated by exigency of the situation, and fair play and good sense appear to be the only safe guides and that only requirements of justice command this examination of any person which would depend on the facts



and circumstances of each case.” It has not been disputed that the trial is still at a nascent stage, with the prosecution evidence still ongoing.

9. The law as enunciated being that the power under Section 311 Cr.P.C. can be exercised at any stage of the proceedings in order to determine the truth and render just decision as also to meet the ends of justice, such discretion of the Court is not limited. The determining factor should therefore be whether summoning/ recalling of the witnesses is in fact essential to the just decision of the case.

10. Hon’ble the Supreme Court in the case of **Varsha Garg vs. State of M.P.**, 2022 SCC OnLine SC 986 while considering and allowing the application under Section 311 Cr.P.C. had observed that, “...The statutory provision goes to emphasise that the Court is not a hapless bystander in the derailment of justice. Quite to the contrary, the Court has a vital role to discharge in ensuring that the cause of discovering truth as an aid in the realization of justice is manifest.”

11. Considering the aforesaid sequence of events, particularly the fact that the video Ex.DX came to be played during the examination of PW-9 Investigating Officer subsequent to the testimony of PW-1 Sunil Kumar, the petitioner cannot be said to have had an opportunity to confront the latter with the said material at the relevant stage. Since the proposed recall is sought only for this limited purpose, which appears to have a direct bearing on an effective adjudication of the matter, the dismissal of the application by the trial Court cannot be sustained in the eyes of law.

12. In view of the above, the petitioner is granted one opportunity to recall and re-examine PW-1 Sunil Kumar, the object underlying Section 311



Cr.P.C. being that there may not be failure of justice.

13. The present petition, accordingly, stands allowed.

14. The observations made hereinabove, are only for the purpose of adjudicating the present petition and may not be construed as an expression of opinion on the merits of the case.

MAY 08, 2026.
Rajender

(AMAN CHAUDHARY)
JUDGE

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