



CRM-M-25677-2026

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

142

CRM-M-25677-2026 (O & M)

Date of decision: 07.05.2026

TAJINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Nitin Mittoo, Advocate,
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. The present petition has been filed for quashing of order dated 09.04.2026, Annexure P-1, vide which application under Section 311 Cr.P.C. has been allowed in case bearing No.CHI/282/2023, titled as 'State vs. Tejinder Singh'.
2. Learned counsel for the petitioner contends that the trial Court was not justified in allowing the application under Section 311 Cr.P.C. which was filed to fill up lacunae by recalling witness Dr. Shilpi Malhotra for re-examination, at the stage of defence evidence.
3. Learned State counsel opposes the same by submitting that the impugned order has been rightly passed by the trial Court, as she is a material witness. Thus, he prays for the dismissal of the present petition.
4. Heard learned counsel on either side.



5. Before proceeding further, it is apposite that the provision of Section 311 Cr.P.C. is referred to, 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. Bare reading of the aforesaid provision *expressis verbis* reveals that the power under this Section can be exercised by any Court at any stage of the proceedings and equally if not more important is the usage of word ‘shall’ in the second part, that makes it imperative that the Court has to summon and examine all persons whose evidence appears to be essential to the just decision of the case. The said power is not granted with the purpose of filling up the lacunae in the evidence of prosecution or defence, rather to discover the relevant facts or to obtain proper proof of such facts for arriving at a just decision of the case. The sole factor to be contemplated by the Court should be to see that justice is done. It is ultimately with the Court of facts to place reliance on the testimony of witnesses which would be based on the quality of their evidence, the truthfulness in it and confidence that it inspires.

7. The object underlying Section 311 Cr.P.C. 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 significant expression that occurs is “at any stage of any inquiry or trial or other proceeding under this Code”, as was held by Hon'ble



the Supreme Court in the case of **V N Patil Vs. Niranjan Kumar**, (2021) 3 SCC 661.

8. It is a cardinal rule in the law of evidence that the best available evidence should be brought before the Court to prove a fact or the points in issue. But it is left either for the prosecution or for the defence to establish its respective case by adducing the best available evidence and the Court is not empowered under the provisions of the Code to compel either the prosecution or the defence to examine any particular witness or witnesses on their sides. It is the duty of a Court not only to do justice but also to ensure that justice is being done. It was further held that the second part of the Section does not allow for any discretion but it binds and compels the Court to take any of the aforementioned two steps if the fresh evidence to be obtained is essential to the just decision of the case as held in **Mohanlal Shamji Soni vs. Union of India & Anr.** AIR 1991 SC 1346, by Hon'ble the Supreme Court.

9. Hon'ble the Supreme Court in **Varsha Garg vs. State of M.P.**, 2022 SCC OnLine SC 986, while considering and allowing the application under Section 311 Cr.P.C. observed that, "...The statutory provision goes to emphasize 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."

10. Fairness of trial being a virtue that is sacrosanct in the judicial system. There is a duty cast upon the Court to arrive at the truth, one of the means for it being that proper and complete evidence be permitted to be adduced.

11. The trial Court, which is fully acquainted with the factual matrix of



the case as well as the evidentiary requirements necessary for a just adjudication thereof, is best placed to assess the necessity, relevance and significance of the testimony of a particular witness and a perusal of the impugned order reveals that it has properly considered the matter in its entirety and thereafter rightly allowed the application under Section 311 CrPC, by observing that the testimony of PW-2 Dr. Shilpi Malhotra is essential.

12. In view of the foregoing, the order passed by the trial Court does not call for any interference, it being neither perverse nor illegal and as such, the petition is dismissed, being devoid of merits.

13. The observations made hereinabove are only for the purpose of adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the case.

07.05.2026
Mkamra

(AMAN CHAUDHARY)
JUDGE

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