



CRR-1211-2026(O&M)

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

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CRR-1211-2026 (O&M)

Date of decision: 05.05.2026

Harneep @ Nipu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sandeep S. Majithia, Advocate for the petitioner.

Mr. B.S Saroha, DAG, Haryana.

AMAN CHAUDHARY, J.

1. The present revision petition has been filed for setting aside the order dated 29.04.2026 passed by learned Additional Sessions Judge, Ambala in SC-235-2020 titled, 'State vs. Vikas and Others', whereby the application filed under Section 311 CrPC for summoning one-Sh. Dharambir, Assistant Director (Ballistics), FSL, Madhuban was allowed.

2. The challenge has been mounted by the learned counsel for the petitioner on the fact that firstly, the FSL report was taken on record without any permission being granted to conduct further investigation under Section 173(8) CrPC and secondly that the witness sought to be examined, was not on the list of the witnesses as appended with the challan, which has been opposed by learned State counsel, submitting that the FSL report is an essential document and in the challan as well, it was mentioned that the recovered items are to be sent to FSL, thus the order has been rightly passed.

3. It would be apposite to refer to the order impugned herein, relevant portion whereof reads thus:



“After hearing the rival submissions of Id. PP for the State assisted by Id. counsel for complainant and Id. defence counsels and after perusing the case file, it is apparently clear that the desired FSL report is essential for the just and proper decision of the present case. It is a scientific evidence. The report has been prepared by an officer of the rank of Assistant Director, FSL, Madhuban and thus, the report prepared by any officer of the rank of Director or Assistant Director is per-se admissible u/s 293 Cr.P.C. The only contention raised by Id. defence counsel that the police should have filed supplementary challan by making the desired FSL report as part and parcel of the supplementary challan before seeking permission to prove the same is not tenable. In the present case, though the closing line of challan depicts that the articles are yet to sent to FSL, Madhuban, but the challan also have statement of EHC Amarjit recorded u/s 161 Cr.P.C. annexed with it whereby it is shown that the parcel as well as bullet had already been sent to FSL on 19.10.2020. EHC Amarjit has also been examined as PW18. Therefore, there is no merit in the contention of Id. defence counsel that the proposed FSL report is beyond scope of challan filed by the police, rather the FSL report is just a natural consequence of the steps already taken before filing challan. Now a days, FSL reports are directly sent to court through post. I have considered the case laws relied upon by the Id. defence counsel but the same are not applicable to the peculiar facts and circumstances of the present case and are distinguishable.

It is again reiterated that FSL report is very essential for the just and proper decision of the case. Accordingly, the application is hereby allowed. Sh. Dharambir, Assistant Director (Ballistics), FSL, Madhuban be summoned to depose through Video Conferencing on 05.05.2026. ”

4. Undisputedly, the challan was presented for checking on 01.10.2020, whereafter the recovered items were sent to FSL for examination on 19.10.2020, as per the statement of EHC Amarjit, recorded under Section 161 CrPC and on the same day the challan was also presented before the Court and thereafter on 24.12.2020, the case was committed to the Court of Sessions. The FSL report is with regard to the weapon used in the commission of offence, which was recovered on 23.07.2020, i.e. way before the challan was even prepared and is admittedly a part of the trial Court record, as is apparent from the noting dated



learned State counsel during the course of hearing and thus is not a new piece of evidence. Moreover, taking on record the same was never challenged by the petitioner for more than 4 years.

5. In this regard, it would be gainful to refer to the judgment passed in **Sameer Sandhir vs. Central Bureau of Investigation**, 2025 SCC OnLine SC 1206, wherein Hon'ble the Supreme Court had observed that, "In the facts of the case, the CDs were seized and referred for forensic analysis to the CFSL along with voice samples of the accused. The CDs were referred to in the supplementary chargesheet. After the report of the CFSL was received, the supplementary chargesheet was filed for placing on record the said report. Therefore, when the CDs were sought to be produced, in a sense, they were not new articles; the CDs were very much referred to in the supplementary chargesheet filed on 13th October 2013. There was only an omission on the part of the respondent-CBI to produce the CDs. Therefore, applying the law laid down in the case of *R.S. Pai*¹, the impugned judgments of the Special Court and the High Court cannot be faulted with. We do not see how the decision in the case of *R.S. Pai*¹ requires reconsideration."

6. Insofar as summoning a witness, who was not a part of the list given with the challan is concerned, an apt reference can be made to Section 311 CrPC, 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."

The power under Section 311 CrPC 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. This Section 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 to unearth the pertinent facts or obtain solid evidence necessary for proper adjudication in the case.

8. Illuminating the provision of Section 311 CrPC 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."



9. The law as enunciated being that the power under Section 311 CrPC 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 of the witnesses is in fact essential to the just decision of the case. In the case at hand, the examination of the Ballistics expert is being sought to be conducted, which is even otherwise *per se* admissible as per Section 293(2) and 293(4) CrPC, as held in **Santosh vs. State (NCT of Delhi)**, (2023) 19 SCC 321. Even though his name was not mentioned in the list of witnesses with the challan, nonetheless, his evidence is essential.

10. There is no prejudice whatsoever being caused to the petitioner, as he would have full opportunity to cross-examine the summoned witness.

11. 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 bereft of merits.

05.05.2026
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No