

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

129

2026:PHHC:067914



CRM-M-32390-2023 (O&M)  
Date of decision: 30.04.2026.

JASWINDER SINGH

...Petitioner(s)

VERSUS

AJAY DHIR

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Jagjit Singh, Advocate,  
for the petitioner.

Mr. Atul Jain, Advocate  
for the respondent.

**VINOD S. BHARDWAJ, J. (Oral)**

The instant petition has been filed by the petitioner against the order dated 31.05.2023, passed under Section 311 of the Code of Criminal Procedure, 1973 in a complaint case bearing No.NACT/40/2018 instituted on 07.02.1018 titled as 'Ajay Dhir Vs. Jaswinder Singh' stated to be pending in the Court of Judicial Magistrate First Class, Sultanpur Lodhi, District Kapurthala.

Learned counsel appearing on behalf of the petitioner contend that the respondent-complainant had instituted the aforesaid proceedings for commission of offence under Section 13 of the Negotiable Instruments Act, 1881. When it was alleged that the petitioner herein had been selling agricultural produce and also raising loan from the respondent-complainant from to time as advance amount. He contends that an amount of Rs.17 lakhs had been received by the petitioner herein calculated upto 28.05.2014. He contends that in order to discharge the said liability, the petitioner issued a cheque bearing No.932127 dated 15.05.2017 for a sum of Rs.17 lakhs drawn at State Bank of Patiala, (now State Bank of India) Branch Sultanpur Lodhi, which such cheque on presentation by the respondent complainant for encashment was dishonoured and hence, the complaint in question was filed. He contends that the parties led their respective evidence in the Court, however, after the evidence had already been concluded and the statement of petitioner has been recorded under Section 313 Cr.P.C. and the matter was fixed for hearing final arguments, an application under Section 311 Cr.P.C., was moved by the respondent complainant reflecting payment of the amount to the petitioner herein through different cheques from his bank account which have been denied by the petitioner. The said application was allowed vide impugned order dated 31.05.2023 and a witness was summoned. Aggrieved thereof, the present petition has been filed.

Learned counsel for the petitioner relies upon the order of the Supreme Court in the matter of **Mohd. Ghouseuddin Vs. Syed Riazul Hussain and another, passed in SLP (Crl.) No.3191 of 2019 decided on 12.07.2021**, wherein it was held that even though Section 311 Cr.P.C.

entitles summoning of documents, however, the said power is to be exercised only when the trial is in progress and not when the trial has been completed and efficacy of trial cannot be whittled down by such belated application.

Learned counsel appearing on behalf of the respondent complainant, however, contends that there is a misappreciation of the order by the petitioner. As a matter of fact, the petitioner never made any application for summoning of any witness. The said application was moved only to place on record the account statement. On noticing the said document, the Court itself directed production of the concerned official from the State Bank of India with the Statement of Account. He contends that said witness has been summoned as a Court witness which such aspect has been reflected in para no.8 of the impugned order. The operative part of the same reads thus: -

*“7. Now this documentary evidence which are account entries and be the best evidence. Accused denies that he received any amount from the complainant. But complainant as alleged that he made the payment in the account of accused. Accused never denied that account no.65073790908 with State Bank of Patiala now State Bank of India does not belong to him.*

*8. Therefore, to do the complete justice, instead of placing record the account statement by complainant, Court deems fit to summon the concerned official of the State Bank of India with the record of the account statement of account bearing no. 55054235919 belonging to M/s Harish Pal Rajiv Kumar Dana Mandi Sultanpur Lodhi as well as account statement of the account no.65073790908 in the name of Jaswinder Singh son of*

*Amrik Singh for the period 01.08.2010 to 30.06.2013. The witness will be examined as a Court witness and both accused and complainant will have right to cross-examine the said bank official so that there is no prejudice to any of the party. Hence, the application stands allowed with said observations/modifications.*

*Let concerned official of State Bank of India Branch Sultanpur Lodhi be summoned for 10.07.2023 with the record of abovesaid account statements for the period mentioned above.”*

It is contended that judgment of the Supreme Court in the matter of **Mohd. Ghouseuddin** (supra) would not be applicable in the facts of the present case inasmuch as it is not the case herein that any application of the petitioner for summoning of the witness has been allowed. The witness has been summoned as a Court witness and that such power always vests in the Court to summon any witness or document. He contends that till a judgment is released, the trial could not be said to have completed and that the same remains pending.

I have heard learned counsel for the respective parties and have also gone through the documents appended along with the present petition including the impugned order.

In so far as the contention of the counsel for the respondent that the witness had not been summoned on the asking of the petitioner herein, is concerned, the said submission merits acceptance. It is evident from a reading of para no.8 of the impugned order that the witness has been summoned as a Court witness and both the parties have been granted right to cross-examine the said witness. Besides, the witness so summoned as a Court is a bank official and not any private person.

The provision of Section 313 Cr.P.C. has to be seen in its true perspective. The said Section is reproduced herein below: -

***“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 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.*

It is evident a perusal of the above that an inherent power is vested in any Court to summon any person as a witness and examine any person as a witness who could not be summoned if his evidence appears to be essential for the just decision of the case. The expression used is ‘at any stage of any inquiry, trial or other proceeding. The trial would be said to be pending as a part of the proceedings even though the arguments may have been heard but the judgment has not been pronounced. Besides this, Section 165 of the Evidence Act, further empowers the Court to question any witness or to ask for production of any document. The said provision has to be read in the light of Section 311 Cr.P.C. Undisputedly, the Court witness has been required to produce documents to discover proper and relevant facts and the production of the record from the source i.e. bank itself. In such circumstances, Section 165 of the Evidence Act, as a matter of fact forbids any of the parties to raise any objection to a decision of the Court.

The judgment in the matter of **Mohd. Ghouseuddin** (supra) has been passed on the facts of the said case and is not a precedent on the issue

involved herein. Counsel for the petitioner has also failed to point out as to how the said judgment is applicable to the facts of the present case. Undisputedly, the order impugned has been passed by the Court after giving specific reasons. The said reasons assigned are to do complete justice and are not lacking in objectives. Besides, the parties have also been granted opportunity to cross-examine the said witness. Hence, none of the parties is likely to suffer any prejudice on account of the examination of an independent witness summoned by the Court which has been thought necessary by the trial Court for a just decision in the matter.

I find no ground for interfering in the impugned order that has been passed by the trial Court. The present petition is accordingly dismissed.

April 30, 2026.  
raj arora

(VINOD S. BHARDWAJ)  
JUDGE

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