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

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**CRM-M No.30548 of 2026
Date of decision: 26.05.2026**

Sukhbir Singh

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Saurabh Bajaj, Advocate,
for the petitioner.

Ms. Himani Arora, DAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of order dated 22.01.2026 passed by the Court of learned Judicial Magistrate 1st Class, Karnal in case arising out of FIR No.265 dated 08.09.2017 registered under Sections 279 and 304-A of IPC and Section 181 of Motor Vehicles Act, 1988 at Police Station Taraori, District Karnal, whereby an application filed by the petitioner-complainant under Section 348 of BNSS (which is pari materia with

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Section 311 of Cr.P.C.) for making prayer for summoning an additional witness had been declined.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of statement recorded by the present petitioner alleging that on 08.09.2017, his mother and wife of his younger brother Satbir namely, Reena had gone to the premises of Government High School Village Maini Khurd for cutting grass. On the same evening, he came to know that two youths who were learning driving by driving a car, had driven it rashly, negligently and on a high speed and on doing so, had hit Reena due to which she had sustained injuries. She was taken to hospital but succumbed to the injuries so sustained. After registration of FIR, investigation proceedings were initiated. Investigation now stands concluded. The respondents No.2 who had been named as accused therein is facing trial for commission of aforementioned offences.

3. As revealed from the record, the petitioner-complainant had moved an application for summoning one Rani daughter of Jasmer Singh, resident of Village Bhaini Khurd as a witness and examining her by submitting that infact she was present at the spot of occurrence and had seen the same and hence was a material witness.

4. The learned trial Court dismissed the prayer so made by the petitioner by passing the impugned order and aggrieved from the same,

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this petition has been filed.

5. It is argued by learned counsel for the petitioner that the impugned order is liable to be set aside as while passing the same, the learned trial Court ignored the fact that the testimony of the proposed witness was very essential and material for just decision of the case. She was an important witness who had even been examined as such in a petition filed under the provisions of Motor Vehicles Act for seeking compensation on account of accidental death of Reena. She had deposed therein that she had seen the incident with her own eyes. The case is still at the stage of producing prosecution evidence. By denying the opportunity to summon and examine an additional evidence, a great prejudice has been caused to the petitioner. It is, therefore, argued that the impugned order is liable to be set aside, the petition deserves to be allowed and the application under Section 348 of BNSS deserves to be allowed.

6. Notice of motion.

7. Ms. Himani Arora, DAG, Haryana has advance notice of the petition. She has not raised any serious objection to allowing of the petition.

8. This Court has considered the rival submissions.

9. It is well settled proposition of law that the powers conferred under Section 348 of BNSS (311 of Cr.P.C) should be invoked by the

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Court to meet the ends of justice but they should be exercised with great caution and circumspection. The discretionary power conferred with the Court under this provision can be invoked to meet the ends of justice and has to be exercised judiciously. The true test for the purpose of this provision is whether it appears to the Court that the evidence of the proposed person who is sought to be recalled is essential for just decision of the case. This provision cannot be allowed to fill up lacuna in the case of the prosecution or of the defence or of disadvantage to the accused or to cause prejudice and unfair advantage to either party. Powers under this provision can be and must be exercised when the evidence which is likely to be tendered by a witness is germane to the issue involved, while keeping in view that the opportunity of rebuttal, however, must be given to the other party. On applying these principles of law to the instant case, where the petitioner is seeking summoning of an additional witness, let us consider as to whether the proposed witness deserves to be summoned as such.

10. The plea as taken by the petitioner is that the proposed witness Rani was present at the spot of occurrence at the time of incident and had seen the same. He has placed on record Annexure P-4 copy of sworn deposition of the abovesaid Ravi in a petition filed under the provisions of Motor Vehicles Act which shows that she was present at the spot at the time of occurrence. Undisputedly, she has not been cited as a witness in

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the list of witnesses and has been sought to be summoned at this stage. However, it is also not in dispute that the case is still at the stage of producing prosecution evidence. On going through the record, this Court is of the considered opinion that the proposed witness if allowed to be examined as such would certainly help the Court for proper and just decision of the case. So far as the accused is concerned, he would obviously be given a fair opportunity to cross-examine the proposed witness to elicit the truth. As such, in the considered opinion of this Court, allowing the petitioner to summon the proposed witness as such and to examine her would not amount to filling up the lacuna in this case rather it would help the trial Court for just decision of the case. Accordingly, the petition is allowed, the impugned order dated 22.01.2026 is set aside. The application as filed by the petitioner is allowed and the trial Court is directed to summon the above named Rani as an additional witness and to examine her as such. The trial Court shall ensure that the cross-examination of this witness is conducted on the same day when she appears for that purpose and in an expeditious manner and no act can be done by either of the parties to protract the proceedings.

(MANISHA BATRA)
JUDGE

26.05.2026
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No