



CRM-M-30976-2026

-1-

147

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

CRM-M-30976-2026 (O&M)

Date of decision: 27.05.2026

Hem Singh Bharana

... Petitioner

Vs.

Narender Bhadana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. P.S. Ahluwalia, Sr. Advocate with
Mr. Kushagra Beniwal, Advocate
for the petitioner.

Mr. Anupam Kakkar, Advocate for
Mr. Anil Kumar Rana, Advocate
for the respondent.

SUBHAS MEHLA, J. (ORAL)

1. By way of present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'the BNSS') (Section 482 Cr.P.C.), the petitioner is seeking quashing of the order dated 08.04.2026 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Faridabad, in Criminal Complaint bearing No.COMI/421/2016 dated 19.08.2012 (Annexure P-3) titled as '*Narender Bhadana Vs. Hem Singh Bharana*', vide which right of defence evidence of the petitioner was closed by Court order.

**CRM-M-30976-2026****-2-**

2. Learned counsel for the petitioner submitted that the impugned order suffers from patent illegality and perversity and the trial Court has erred in passing the impugned order in complete violation of the order dated 28.11.2025 passed by this Court in CRM-M-63960-2025, whereby the trial Court was directed to grant three opportunities to the defence to lead its evidence. It is further submitted that on 19.01.2026, examination-in-chief of DW4 Ayush Parik was recorded, however, his cross-examination was deferred on the request made by the counsel for the complainant. The trial Court is proceeding with the case without complying with the directions issued by this Court vide order dated 28.11.2025, as no opportunity was granted to the petitioner and defence evidence was closed vide impugned order dated 08.04.2026 (Annexure P-1), which is violating his fundamental right of fair trial enshrined under Articles 14 and 21 of the Constitution of India. As such, it is prayed for setting aside the impugned order.

3. Learned counsel for the respondent has opposed the prayer made by the petitioner by contending that in compliance of the order dated 28.11.2025 passed by this Court, three effective opportunities were granted to the petitioner to lead his defence evidence, as third and last opportunity was granted for 08.04.2026 and on that date, one DW Gajender, an official from the office of DTP, Chandigarh was present, however, learned defence counsel denied to examine him. As such, learned counsel prayed for dismissal of the present petition.

4. Heard.

5. The power under Section 311 of Cr.P.C. is a wide power, which



can be exercised at any stage of trial, for proper adjudication of the case. In ***Zahira Habibullah Sheikh (5) and Anr. Vs. State of Gujarat and Others, 2006(2) RCR (Criminal) 448***, Hon'ble the Supreme Court has considered the concept underlining object of Section 311 of Cr.P.C. as under:-

"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".

**CRM-M-30976-2026****-4-**

6. This Court finds merit in the present petition and the impugned order dated 08.04.2026 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Faridabad is hereby set aside. The petitioner is granted two more effective opportunities to examine only two witnesses i.e. cross-examination of DW-4 Ayush Parik and examination of Registry Clerk from the office of Sub-Registrar, in his defence, however, subject to payment of Rs.10,000/- to the respondent-complainant.

7. The pending miscellaneous application(s), if any, also stand(s) disposed of.

27.05.2026
vishnu

[SUBHAS MEHLA]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No