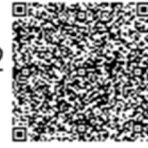


**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

2026:PHHC:089772



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CRM-M-35008-2026 (O&M)
Date of decision: 02.07.2026

Malkeet Singh and another**...Petitioners**

Versus

State of Haryana and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Parminder Singh, Advocate
for the petitioners.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners for setting aside the order dated 12.06.2026 (Annexure P-9) passed by the learned Additional Chief Judicial Magistrate, Karnal in FIR No. 462 dated 26.06.2015 registered under Sections 120-B, 406, 420, 467, 468 and 471 of IPC at Police Station Civil Lines Karnal, titled as *State vs. Pritam Singh and others*, whereby the application for additional evidence filed under Section 348 of BNSS (*which is pari materia with Section 311 of Cr.P.C.*) has been allowed.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the allegations that complainant/respondent No.2 had become owner of the disputed house by virtue of a Will allegedly executed by his father. It was alleged that the present petitioners, who are closely related to the complainant, had prepared a forged and fictitious Will and on the strength thereof, got a sale deed executed in respect of the property. It was further alleged that a civil

suit instituted by the complainant through his power of attorney had been withdrawn without his knowledge or consent, thereby causing fraud upon him. Upon completion of investigation, the police presented the challan on 19.09.2016 and the case proceeded to trial. The prosecution examined all its witnesses and after availing more than 37 effective opportunities, the prosecution evidence was ordered to be closed vide order dated 17.01.2025.

3. Thereafter, the complainant moved an application under Section 311 Cr.P.C. seeking permission to lead additional evidence by summoning certain witnesses. The said application was allowed by the learned Additional Chief Judicial Magistrate, Karnal vide order dated 01.05.2025, granting one final opportunity to conclude the remaining prosecution evidence. A revision petition preferred by a co-accused against the said order came to be dismissed by the learned Additional Sessions Judge on the ground that the order was interlocutory in nature and the revision was not maintainable. Pursuant thereto, the additional prosecution evidence was recorded and thereafter the prosecution evidence was again closed. Statements of the accused under Section 313 Cr.P.C. were recorded, the petitioners led their defence evidence and the matter reached the stage of final arguments. At the stage when the case was ripe for pronouncement of judgment, the complainant filed yet another application under Section 311 Cr.P.C. praying for recall of PW-4 and PW-5 for their further examination. The petitioners opposed the application by contending that the same was only an attempt to fill up the lacunae in the prosecution case after conclusion of the entire evidence. However, the learned Trial Court, vide the impugned order dated 12.06.2026, allowed the said application. Aggrieved thereby, the petitioners have invoked the inherent

jurisdiction of this Court under Section 528 of BNSS seeking quashing of the impugned order.

4. Learned counsel for the petitioners has argued that the impugned order suffers from patent illegality as it permits the prosecution to fill up the lacunae in its case after the trial has virtually concluded. It is argued that despite availing more than 37 effective opportunities, the prosecution had already closed its evidence and had also been granted one further opportunity pursuant to the earlier application under Section 311 Cr.P.C. After completion of the additional evidence, recording of statements under Section 313 Cr.P.C. and examination of defence witnesses, the prosecution could not be permitted to seek yet another opportunity to recall witnesses merely because it had failed to properly conclude their examination earlier. It is further submitted that the alleged deficiency in the testimony of PW-4 and PW-5 was well within the knowledge of the prosecution even when the earlier application under Section 311 Cr.P.C. was filed and allowed. Therefore, filing a second application at the stage when the matter was ripe for judgment is nothing but an attempt to overcome weaknesses in the prosecution case. Learned counsel argues that such a course causes serious prejudice to the accused, who have already disclosed their defence by leading evidence, and violates their valuable right to a fair and expeditious trial. It is, thus, prayed that the impugned order be set aside.

5. *Per contra*, learned State counsel has argued that there is no infirmity or illegality in the impugned order and the learned trial Court has rightly exercised the discretionary power vested under Section 311 Cr.P.C. to ensure that the truth is brought before the Court and that no material evidence is left out on account of any inadvertent omission. It is argued that the object

of the provision is to enable the Court to summon or recall any witness if such evidence appears essential for arriving at a just decision, and that procedural technicalities should not stand in the way of doing complete justice. It is further contended that the proposed recall of PW-4 and PW-5 is only for completing their examination and does not amount to introducing an altogether new case against the accused. The petitioners would have a full opportunity to cross-examine the recalled witnesses and, therefore, no irreparable prejudice would be caused to them. Hence, it is urged that the petition is liable to be dismissed.

6. This Court has heard the rival submissions.

7. It is well settled that the power, under Section 311 of the Code, can be exercised by the court ***at any stage of any inquiry, trial or other proceedings under the Code***, to summon any person as witness, examine any person in attendance, though not summoned as a witness or recall or re-examine any person already examined. The intention of the Legislature is to empower and enable the court to come to a correct finding and for that reason, the court would be fully justified in permitting production of evidence, whether documentary or oral, where the court feels that the same is necessary for the just decision of the case. No fetters can be put in exercise of these powers of the court. The cause of justice is paramount and no impediment has, therefore, been intentionally put on the court by the Legislature to exercise the powers under Section 311 Cr.P.C.

8. In ***Zahira Habibulla H. Sheikh and anr. v. State of Gujarat and ors 2004 (2) RCR (Crl.) 836***, the Supreme Court described the scope of Section 311 of the Code as under:-

“Object of the Section is to enable the court to arrive at the truth irrespective of the fact that the prosecution or the defence has failed to produce some evidence which is necessary for a just and proper disposal of the case. The power is exercised and the evidence is examined neither to help the prosecution nor the defence, if the court feels that there is necessity to act in terms of Section 311 but only to subserve the cause of justice and public interest. It is done with an object of getting the evidence in aid of a just decision and to uphold the truth.”

9. In ***Mannan Sk. and others Versus State of West Bengal and another 2014 (13) SCC 59***, Hon'ble Apex Court had allowed the application filed under Section 311 of the Code and the witness was recalled re-examined after 22 years of incident, holding that justice must not be allowed to suffer because of the oversight of the prosecution.

10. On applying the aforementioned ratio of law to the present case, it is revealed that the principal grievance raised on behalf of the petitioners is that the prosecution had already availed more than 37 effective opportunities and that permitting recall of PW-4 and PW-5 at the stage when the matter was fixed for final arguments amounts to allowing the prosecution to fill up the lacunae in its case. However, mere delay or the stage at which the application is moved cannot, by itself, be a determinative factor for rejecting an application under Section 311 Cr.P.C. The decisive consideration is whether the evidence sought to be adduced appears to the Court to be essential for arriving at a just decision of the case.

11. A perusal of the impugned order reveals that the learned trial Court has exercised its discretion after taking into consideration the nature of the evidence sought to be brought on record and has formed an opinion that recall of the said witnesses was necessary for the just adjudication of the

controversy. Such satisfaction, being founded upon the facts of the case, cannot be said to be arbitrary, perverse or suffering from any patent illegality warranting interference in exercise of the inherent jurisdiction of this Court.

12. The apprehension expressed by the petitioners that permitting recall of the witnesses would cause prejudice to the defence is also without substance. It is not the case that any entirely new evidence or a new prosecution case is sought to be introduced. Rather, the witnesses are only being recalled for their further examination. The petitioners shall have adequate opportunity to cross-examine the recalled witnesses and to rebut the evidence, if so advised. Therefore, no irreparable prejudice can be said to have been caused to them. In the light of the aforesaid principles, the impugned order cannot be faulted merely because the application was allowed at an advanced stage of the trial.

13. Consequently, this Court finds no illegality, perversity or jurisdictional error in the impugned order dated 12.06.2026 passed by the learned Additional Chief Judicial Magistrate, Karnal. The present petition, being devoid of merit, is accordingly dismissed. The Trial Court shall, however, ensure that the additional evidence is recorded expeditiously without granting any unnecessary adjournment and shall thereafter proceed to conclude the trial at the earliest.

02.07.2026

Wassem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No