



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

CRR-2653-2023

Date of Decision:14.05.2026

Kamla @ Pushpa

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr.Pardeep Duhan, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Sr.DAG, Haryana.

None for respondents No.2 and 3.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned order dated 26.10.2023, passed by the Court of Additional District and Sessions Judge, Hisar, whereby, the statement made by the Public Prosecutor was accepted and the evidence of the prosecution was closed by the Court.

2. Learned counsel for the petitioner/complainant contends that the petitioner had lodged one FIR No. 518, dated 05.08.2021, under Sections 302 and 341 of IPC, registered at Police Station HTM, Hisar against respondents/accused in the present case. At the time of occurrence, Kamla @ Pushpa (PW-2) and Rajo (PW-15), eye witnesses were present at the place of occurrence and the occurrence was captured in the C.C.T.V, installed at the place of occurrence. Even, C.C.T.V footage was taken in a pendrive and the application under Section 311, Cr.P.C was moved by the complainant for re-calling and re-examination of both the witnesses namely Kamla @ Pushpa



(PW-2) and Rajo (PW-15) for the purpose of showing the pendrive by playing the same in the Court, so that the identity of the accused in the present case may be established.

3. The Trial Court heard both the sides and vide the order dated 12.10.2023, the said application was allowed by passing the following order:-

“The pen drive Ex.P3 is allegedly containing the CCTV footage of the camera installed at the place of occurrence where the alleged murder was committed by the two accused persons and witnessed by PW-2 Kamla complainant and the another eye witness namely Rajo PW-15. Now, the prosecution intends to play that pen drive in presence of those two witnesses. Since the proposed evidence i.e. recalling of the two witnesses PW-1 Kamla and PW-15 Rajo may guide the Court for just decision of the case and to determine the guilt of the accused, therefore, the instant application is hereby allowed. PW2 Kamla and PW15 Rajo be summoned for 23.10.2023”.

4. Learned counsel further contends that on 26.10.2023, the case was fixed for examination of abovestated two witnesses, however, the Public Prosecutor made a statement that he did not want to examine the witnesses, who had been re-called under Section 311 Cr.P.C and closed the evidence by making the statement. He further contends that in fact, the Public Prosecutor had clearly abdicated his responsibility of leading the evidence to ensure delivery of justice. The Public Prosecutor is under a legal duty to place before the Court whatever evidence is in his possession. A Public Prosecutor is also under a duty to ensure that full material facts are brought on record before the Trial Court, so that there might not be any miscarriage of justice.

5. On the other hand, learned State counsel has vehemently opposed



the submissions made by learned counsel for the petitioner and submitted that the evidence has been rightly closed by the Court. Learned State counsel further submits that in compliance of the order dated 23.04.2026, passed by this Court the respondents No.2 and 3 have been duly informed by the SHO Police Station, HTM, Hisar, still, there is no representation on behalf of respondents No.2 and 3.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, it is apparent that vide order dated 12.10.2023 (Annexure P-1), the Trial Court had allowed the application under Section 311 Cr.P.C, which was moved by the complainant and was duly forwarded by the Public Prosecutor to re-call Kamla @ Pushpa (PW-2) and Rajo (PW-15), so that the pendrive Ex.P-3 may be played in their presence to prove the identity of the accused. Once, the said application was allowed by the Court on 12.10.2023, the Public Prosecutor was not at all justified in making a statement that he did not want to examine these two witnesses under Section 311, Cr.P.C and wrongly closed the evidence by making a separate statement. In fact, such statement raises serious question marks about the conduct of the Public Prosecutor. The application under Section 311, Cr.P.C, even though was moved by the complainant, who was also forwarded by the Public Prosecutor of the State, which clearly shows that the application was moved after due application of mind by the Public Prosecutor. Surprisingly, on the adjourned date, the Public Prosecutor made a statement in question, which prevented the complainant from placing on record the evidence, which could be necessary to ensure the just disposal of the case. The Public Prosecutor is under a legal duty to place on record the best possible evidence before the Trial Court and to



perform his duties impartially. Even, the trial Court is also expected to play a participatory role in criminal trials and should ensure that the prosecution as well as the accused are granted full opportunity to lead their respective evidence before the Court, so that justice may be delivered to the parties. Even, it is the duty of the Public Prosecutor, who is an officer of the Court to ensure that full material facts are brought on record, so that there might not be a miscarriage of justice. I find that the Public Prosecutor had wrongly made a statement for closure of the prosecution evidence in the present case.

8. Consequently, the present revision petition is allowed and the impugned order dated 26.10.2023, passed by the Court of Additional District and Sessions Judge, Hisar is set aside and the complainant/prosecution may be permitted to re-call Kamla @ Pushpa (PW-2) and Rajo (PW-15), so that the pendrive Ex.P3 may be played in their presence to prove the identity of the accused in the present case.

9. The Trial Court is also directed to hold a meeting with the District Attorney, Hisar and to ensure that a new Public Prosecutor is appointed in the present case to conduct the trial further.

14.05.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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