



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2723-2025(O&M)

Reserved on : 07.05.2026

Pronounced on : 27.05.2026

Uploaded on : 28.05.2026

*Whether only operative part of the judgment is
pronounced or the full Judgment is pronounced:* **Full Judgment**

JUGNU

... PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Lalit Singla, Advocate (arguing counsel)
Ms. Varsha Sharma, Advocate,

Mr. Edward Augustine George, Advocate,
for the accused.
Ms. Svaneel Jaswal, Addl.AG. Haryana.

SANJIV BERRY, J.

1. By way of the instant revision petition, petitioner has assailed impugned order dated 30.09.2025 passed by learned Additional Sessions Judge, Kurukshetra in SC No. 145 of 2023 titled as “*State vs. Hardeep & Ors.*”, wherein the petitioner is the complainant in FIR No.13 dated 09.01.2023 under Sections 148, 149, 323,326, 307 and 379-B IPC and Section 16 of the Unlawful Activities (Prevention) Act, 1967 registered at Police Station Sadar Thanesar, District Kurukshetra, Haryana, whereby the application under Section 311 Cr.P.C moved by the complainant-petitioner for recall and re-examination as a witness was dismissed.



2. Briefly stating the facts of the case are that the petitioner had been a agriculturist by occupation and a licensed liquor contractor since 2018, there had been enmity of the complainant with the accused persons namely Sanju Muana and Ankush Kamalpuria. It is alleged that on 09.01.2023 around 12:40 pm when the petitioner was on way from Karnal to Kurukshetra, had stopped at Haveli Dhaba on G.T. Road, Kurukshetra for lunch, then two cars arrived with 10-12 armed assailants carrying firearms, swords and other sharp-edged weapons and without provocation they launched murderous attack on the petitioner with an intent to cause his death. The assailants caused multiple injuries to the complainant including amputation of his both hands. The assailants took away both his severed limbs(hands), mobile phone and key of his vehicle from the spot. The petitioner was rushed to the hospital for treatment and FIR was registered.

2.1 Subsequently, after completion of investigation and arrest of the accused, challan was presented in Court where the charges were framed on 12.09.2023. During prosecution evidence, the petitioner appeared as PW-1 on 27.09.2023 but due to constant fear and threats from the accused persons, he could not depose freely and failed to identify the assailants, as a result, he was declared hostile by the prosecution. The petitioner at that time being 100% disabled person both physically and mentally devastated, was not in a position to withstand intimidation or pressure from the accused and their associates.

2.2. The petitioner had approached this Court in CRM-M-21563-2023 seeking transfer of investigation outside the jurisdiction of Kurukshetra and for ensuring his protection wherein notice was issued, but before the petitioner could be heard, he was threatened with dire consequences and under the compelling circumstances, the petitioner could not explain the true facts in his testimony on



27.09.2023, being under pressure and intimation of fear for his own life and lives of his family members, he had to withdraw the petition on 14.11.2023.

2.3. It is averred that after regaining courage and mental strength, the petitioner filed the application under Section 311 Cr.P.C on 23.05.2024 seeking his recall and re-examination as a witness to put forth the truth which was suppressed due to coercion and fear vide application dated 23.05.2024 (Annexure P-5).

2.4 The petitioner was again threatened by the accused persons and for his protection he moved the complaint dated 03.06.2024 (Annexure P-6).

2.5 The accused filed reply to the application on 11.08.2025, thereafter the learned trial Court ignoring the circumstances mentioned above and also the spirit of Section 311 Cr.P.C dismissed the application on 30.09.2025.

3. We have heard learned counsel for the parties and perused the record.

4. It is *inter alia* contended by learned counsel for the petitioner that the learned trial Court is totally ignoring the facts and circumstances and while passing the impugned order even ignored the factum of the petitioner undergoing lot of mental and physical agony on account of the heinous crime committed by the accused in chopping of both his hands and taking them away at a public place in broad day light. He contends that the complainant being under coercion and threats by the accused could not depose correctly while appearing as PW-1 on 27.09.2023 and on regaining mental and physical strength he moved an application under Section 311 Cr.P.C which however, was dismissed by learned trial Court mainly on the ground of delay. In this regard to the essence of the provisions contained in Section 311 Cr.P.C, he contends that even on account of threats being extended by the accused and their associates, the petitioner had



moved a complaint (Annexure P-6) to the police. He has referred to the judgment passed by Hon'ble Supreme Court in ***Munilakshmi vs. Narendra Babu, 2024 (12) SCC 636***; and prayed for acceptance of the revision petition.

5. Per contra learned counsel for respondent-accused has assailed these arguments by submitting that the applicant petitioner had not supported the case of the prosecution while appearing in Court on 27.09.2023 as PW-1 and the application under Section 311 Cr.P.C had been moved by him after unexplained delay of about 8 months at a belated stage, just to harass the accused persons due to *mala fide* intention. He contends that the learned Trial Court rightly dismissed the application under Section 311 Cr.P.C vide the impugned order dated 30.09.2025 and the same does not suffer from any infirmity so as to require recalling of the petitioner for his re-examination, as such, he prayed for dismissal of the revision petition.

6. Considering the submissions and also perusing the record, it is observed that the instant FIR was registered on the statement of the petitioner-victim who had lost both his hands in the occurrence. It is not disputed that while appearing as PW-1 on 27.09.2023, the petitioner had not supported the case of the prosecution and had although testified regarding the occurrence having taken place on 09.01.2023 at Dhaba where he had stopped for lunch and testified that the assailants had given repeated gandasi blows on his person, as a result both of his hands were chopped off but had stated that the accused present in the Court were not the persons who had attacked him. Even after being declared hostile, during the cross-examination by learned State counsel the petitioner had not uttered anything against the accused.

6.1. Thereafter, during course of trial, petitioner had moved an application under Section 311 Cr.P.C dated 23.05.2024 (Annexure P-5) seeking



re-examination *inter alia* on the ground that the petitioner is having 100% disability and is totally dependent on others. The accused person had produced him in the trial Court and threatened, when the statement was recorded, as there was no body in his house at that time. Resultantly the statement recorded by him on 27.09.2023 was under threat and coercion, even he had approached the High Court for providing him security on account of threats from the accused.

6.2. The learned trial Court by passing the impugned order dated 30.09.2025 dismissed the application under Section 311 Cr.P.C, aggrieved by the same, present petition has been preferred by the petitioner.

6.3. As per record, FIR No.13 dated 09.01.2023 under Sections 148, 149, 323,326, 307 and 379-B IPC and Section 16 of the Unlawful Activities (Prevention) Act, 1967 registered at Police Station Sadar Thanesar, District Kurukshetra, Haryana, was registered at the instance of the petitioner-victim. During course of investigation, the accused were arrested and on completion of the investigation, challan was presented in Court wherein charges under the aforesaid Sections were framed against nine accused on 12.09.2023. The petitioner-victim was examined as PW-1 on 27.09.2023 wherein he had not supported the case of the prosecution and turned hostile.

6.4 By way of moving application under Section 311 Cr.P.C the petitioner had sought himself to be re-examined as on 27.09.2023 he was under threat and coercion by the accused persons due to which he could not depose truly.

6.5 It is worth mentioning that as many as nine accused were arrested in connection with the alleged occurrence and forwarded for trial. The accused Sanjay @ Sanju Rana was admitted to bail while all other accused are in custody. To strengthen the claim of the petitioner learned counsel has referred



to the zimny order dated 27.09.2023 (Annexure P-9) which is reproduced here as under:-

“ Presence: Mr. Surjeet Arya, Public Prosecutor for State alongwith

Mr.Rahul Tanwar, counsel for complainant.

(1) Accused namely Hardeep Singh in custody;

(2) Accused namely Anil Kumar in custody;

(3) Accused namely Amrav in custody;

(4) Accused namely Nitin in custody;

(5) Accused namely Kulbir Sharma in custody;

(6) Accused namely Rajesh @ Bhuria in custody;

(7) Accused namely Aditya @ Adi in custody;

(8) Accused namely Dipender in custody

(9) Accused namely Sanjay Pal @ Sanju on bail

Mr.Kamal Kant Aggarwal, counsel for all accused.

ORDER

Accused namely Hardeep, Anil Kumar @ Leeala, Amrav Singh @ Amar Rana, Nitin, Kulbir Sharma, Rajesh @ Bhuria, Aditya @Adi and Dipender produced before the Court in custody.

*Again short date is requested by defence counsel on the ground that all the accused are in custody and the material witness has been examined but the request is declined. **The court had accepted the request of defence counsel for recording of evidence of complainant for today** but now the case is adjourned for 02.11.2023 for remaining evidence of prosecution witnesses. PWs be summoned for date fixed.*

Accused namely Hardeep, Anil Kumar @ Leeala, Amrav Singh @ Amar Rana, Nitin, Kulbir Sharma, Rajesh @ Bhuria, Aditya @Adi and Dipender be kept in judicial custody and be produced before the Court on the date fixed.”

7. It is thus evident from the perusal of the proceedings carried out by the trial court that on 27.09.2023, one of the accused Sanjay Pal @ Sanju was already on bail. The perusal of zimny order would reveal that the Court has acceded to the request of the defence counsel for recording the statement of



complainant for that day. It transpires that the statement of the complainant as PW-1 was recorded by learned trial Court on the request made by learned defence counsel whereas petitioner happened to be the witness of the prosecution and on that day only petitioner was examined. There is categorical stand taken by the petitioner that his deposition was under threat and coercion on that day and the factum of his statement being recorded by the learned trial court on the insistence of learned defence counsel lends support to this claim of the petitioner.

8. It is not out of place to mention here that the petitioner had even moved the High Court for seeking protection and transfer of investigation vide CRM-M No. 21563-2023 however, the same was dismissed as withdrawn on 14.11.2023. Besides the petitioner had moved applications to various authorities seeking protection and even moved such representation to the police (Annexure P-6).

9. Vide impugned order dated 30.09.2025, the learned Trial Court dismissed the application under Section 311 Cr. P.C moved by the petitioner primarily on the ground of being moved at a belated stage. The perusal of the record, considering the facts and circumstances of the case and the gruesome crime committed by the assailants, plight of the petitioner having both of his hands chopped off in the barbaric act, which according to the police investigation were burnt away by the assailants, dismissing the application only on the ground of 'belated stage' to our mind is not justified.

10. Hon'ble Supreme Court in Munnalakshmi's case (supra) observed as under:-

"26. A major challenge before this Court is to ensure a fair trial amidst the hostility of witnesses. Undoubtedly, witnesses play a very vital role in bringing justice home, especially in the adversarial system of court trials



where the onus lies on the prosecution to prove the guilt of the accused by bringing persons acquainted with the facts before the courts of justice. Their testimony determines the fate of a trial before the court of law, without which the court would be like a sailor in an ocean sans the radar and the compass. If a witness turns hostile for extenuating reasons and is reluctant to depose the unvarnished truth, it will cause irreversible damage to the administration of justice and the faith of the society at large in the efficacy and credibility of the criminal justice system will stand eroded and shattered.

*27. This Court in **Ramesh and Ors. v. State of Haryana, (2017) 1 SCC 529** has illustratively explained the reasons behind the witnesses retracting their statements before the Court and turning hostile. These include: (i) threat/intimidation; (ii) inducement by various means; (iii) use of muscle and money power of the accused; (iv) use of stock witnesses; (v) protracted trials; (vi) hassles faced by the witnesses during investigation and trial; and (vii) nonexistence of a robust legislative mechanism to check hostility of witnesses. Amongst these reasons, the 'threat' and 'intimidation' of the witnesses have always been a matter of serious concern amongst all the stakeholders.*

28. It seems to us that the unusual and surprising events that have happened post the grant of bail to Respondent No. 1 do make out a case for recalling the witnesses for an effective, fair, and free adjudication of the trial. This Court is vested with vast and ample powers to have such recourse not only under Article 142 of the Constitution but also under Section 311 of the Code of Criminal Procedure, 1973 (Hereafter 'CrPC'), be it on the request of the prosecution or suo moto. Such Constitutional or statutory power is not limited by any barriers like the stage of inquiry, trial, or other proceeding. A person can be called and examined though not summoned as a witness, or can be recalled, or re-examined so as to throw light upon the imputations. Section 311 CrPC, of course, does not intend to fill the lacunae in the prosecution's case and cause any serious prejudice to the rights of an accused. The exercise of power under this provision is intended to meet the ends of justice and to gather overwhelming evidence to scoop out the truth."



11. In another case of **State of Tamil Nadu vs. N. Seenivasagan, 2021 (14) SCC 1**; the Hon'ble Supreme Court held as under:-

“12. In our view, having due regard to the nature and ambit of Section 311 of the CrPC, it was appropriate and proper that the applications filed by the prosecution ought to have been allowed. Section 311 provides that any Court may, at any stage of any inquiry, trial or other proceedings under the CrPC, summon any person as a witness, or examine 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”. The true test, therefore, is whether it appears to the Court that the evidence of such person who is sought to be recalled is essential to the just decision of the case.

13. In *Manju Devi v State of Rajasthan*, a two-Judge bench of this Court noted that an application under Section 311 could not be rejected on the sole ground that the case had been pending for an inordinate amount of time (ten years there). Rather, it noted that

13. “the length/duration of a case cannot displace the basic requirement of ensuring the just decision after taking all the necessary and material evidence on record. In other words, the age of a case, by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness”. Speaking for the Court, Justice Dinesh Maheshwari expounded on the principles underlying Section 311 in the following terms: (*Manju Devi* case, SCC PP. 207-08, para 10).

“10. It needs hardly any emphasis that the discretionary powers like those under Section 311 CrPC are essentially intended to ensure that every necessary and appropriate measure is taken by the Court to keep the record straight and to clear any ambiguity insofar as the evidence is concerned as also to ensure that no prejudice is caused to anyone. The principles underlying Section 311 CrPC and amplitude of the powers of the court thereunder have been explained by this Court in several decisions.



Though the application for examination of witnesses was filed by the accused but, on the principles relating to the exercise of powers under Section 311, this Court observed, inter alia, as under: (SCC pp. 746 & 748-49, paras 8 & 15)

“8. Section 311 CrPC empowers the court to summon a material witness, or to examine a person present at “any stage” of “any enquiry”, or “trial”, or “any other proceedings” under CrPC, or to summon any person as a witness, or to recall and re-examine any person who has already been examined if his evidence appears to it, to be essential to the arrival of a just decision of the case. Undoubtedly, CrPC has conferred a very wide discretionary power upon the court in this respect, but such a discretion is to be exercised judiciously and not arbitrarily. The power of the court in this context is very wide, and in exercise of the same, it may summon any person as a witness at any stage of the trial, or other proceedings. The court is competent to exercise such power even suo motu if no such application has been filed by either of the parties. However, the court must satisfy itself, that it was in fact essential to examine such a witness, or to recall him for further examination in order to arrive at a just decision of the case.

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15. The scope and object of the provision is to enable the court to determine the truth and to render a just decision after discovering all relevant facts and obtaining proper proof of such facts, to arrive at a just decision of the case. Power must be exercised judiciously and not capriciously or arbitrarily, as any improper or capricious exercise of such power may lead to undesirable results. An application under Section 311 CrPC must not be allowed only to fill up a lacuna in the case of the 7 prosecution, or of the defence, or to the disadvantage of the accused, or to cause serious prejudice to the defence of the accused, or to give an unfair advantage to the opposite party. Further,



the additional evidence must not be received as a disguise for retrial, or to change the nature of the case against either of the parties. Such a power must be exercised, provided that the evidence that is likely to be tendered by a witness, is germane to the issue involved. An opportunity of rebuttal however, must be given to the other party. The power conferred under Section 311 CrPC must therefore, be invoked by the court only in order to meet the ends of justice, for strong and valid reasons, and the same must be exercised with great caution and circumspection. The very use of words such as “any court”, “at any stage”, or “or any enquiry, trial or other proceedings”, “any person” and “any such person” clearly spells out that the provisions of this section have been expressed in the widest possible terms, and do not limit the discretion of the court in any way. There is thus no escape if the fresh evidence to be obtained is essential to the just decision of the case. The determinative factor should therefore be, whether the summoning/recalling of the said witness is in fact, essential to the just decision of the case.”

(emphasis in original)”

12. Hon’ble Supreme court while dealing with scope of Section 311 Cr.P.C in ***Zahira Abibullah Sheikh v.State of Gujarat 2006(3) SCC 674;*** observed as under:-

“26 The section is manifestly in two parts. Whereas the word used in the first part is “may”, the second part uses “shall”. In consequence, the first part gives purely discretionary authority to a criminal court and enables it at any stage of an enquiry, trial or proceeding under the Code (a) to summon anyone as a witness, or (b) to examine any person present in the court, or (c) to recall and reexamine any person whose evidence has already been recorded. On the other hand, the second part is mandatory and compels the court to take any of the aforementioned steps if the new evidence appears to it essential to the just decision of the case. This is a supplementary provision enabling, and in certain circumstances imposing on the court the duty of examining a material witness who



would not be otherwise brought before it. It is couched in the widest possible terms and calls for no limitation, either with regard to the stage at which the powers of the court should be exercised, or with regard to the manner in which it should be exercised. It is not only the prerogative but also the plain duty of a court to examine such of those witnesses as it considers absolutely necessary for doing justice between the State and the subject. There is a duty cast upon the court to arrive at the truth by all lawful means and one of such means is the examination of witnesses of its own accord when for certain obvious reasons either party is not prepared to call witnesses who are known to be in a position to speak important relevant facts.

27. *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.*

28. *As indicated above, the section is wholly discretionary. The second part of it imposes upon the Magistrate an obligation: it is, that the court shall summon and examine all persons whose evidence appears to be essential to the just decision of the case. It is a cardinal rule in the law of evidence that the best available evidence should be brought before the court.*



13. Thus, it transpires from the above that the scope of provisions contained under Section 311 Cr.P.C is wide enough that it provides for no limitation as regards the stage of the case or the manner in which it should be exercised but duty is heavily cast upon the Court is to ensure the examination of those witnesses as it considers absolutely necessary for doing justice. The paramount factor to be taken consideration by the Court is as to whether such recall or re-examination of the witness is essential for the just decision of the case.

13.1 The power under Section 311Cr.P.C must therefore, be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumspection. The court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right.

14. The power under Section 311 Cr.P.C has to be exercised on the basis of essentiality of the evidence sought from a witness to be re-examined, coupled with the paramount requirement for the just decision of the case.

15. Consequently, applying the afore-discussed principles to the peculiar facts and circumstances of the present case, it is observed that the learned trial Court fell in error in declining the application under Section 311 Cr.P.C on the ground of the same being moved at a belated stage, to be precise after 8 months of the examination of the petitioner-victim as PW-1. The learned trial Court lost sight of the fact that both hands of the victim were chopped off by the assailants and burnt by committing gruesome barbaric act and his statement was recorded on the insistence of the learned defence counsel, one of



the accused being on bail on that day which indicate the possibility of some influence being weighing in mind of the petitioner-victim on the date of his testimony.

16. Thus, in view the above, we find the impugned order dated 30.09.2025 passed by learned Additional Sessions Judge, Kurukshetra, suffers from infirmity, as it has ignored the basic essence of Section 311 Cr.P.C, as such, the same is liable to be set-aside and is hereby set-aside by allowing the present petition and to achieve just decision of the case we direct the learned trial Court to allow the recall of the petitioner-victim (PW-1) to be re-examined as prosecution witness in the trial. The defence, of course, would have ample opportunity to cross examine him in accordance with law.

17. Resultantly the impugned order dated 30.09.2025 is hereby set-aside and the revision petition is allowed. The learned trial Court is directed to re-examine the petitioner-victim (PW-1), in accordance with law.

18. Pending miscellaneous application(s) also stand disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 27.05.2026

Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No