



CRR-3214-2025

1

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

120

CRR-3214-2025

Jasmer Singh

...Petitioner

V/s

State of Haryana

...Respondent

Date of decision: 22.01.2026**Date of Uploading : 22.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Ravinder Singh Randhawa, Senior Advocate with
Ms. Tarranum Madan, Advocate for the petitioner.

Mrs. Priyanka Sadar, Sr. DAG Hry.

SUMEET GOEL, J. (Oral)

1. Challenge in the present revision petition is to the order dated 14.11.2025 passed by the learned Additional Sessions Judge, Sonapat, whereby the application moved by the prosecution-State under Section 311 Cr.P.C. for recalling PW-8 Gagan Dhupar (complainant) for identification of his voice in CDs already exhibited as Ex. MO-6 and Ex. MO-7, has been allowed.

2. Learned senior counsel for the petitioner has iterated that the impugned order passed by the Court below, allowing the application under Section 311 Cr.P.C., is illegal, arbitrary and unsustainable in the eyes of law. Learned senior counsel has further iterated that the complainant PW-8 - Gagan Dhupar has already been examined and cross examined at length on several dates in the year 2022 and despite being in possession of the CDs during investigation, the prosecution has failed to play the same at the relevant stage. Learned senior counsel has further submitted that the

application under Section 311 Cr.P.C. has been after a considerable delay



i.e. after closure of prosecution evidence and even after the final arguments which amounts to permitting the prosecution to fill up the lacunae in the case. Learned senior counsel has emphasized that permitting recall of the complainant at this stage would seriously prejudice the rights of the accused and the same amounts to misuse of the discretionary power under Section 311 Cr.P.C. Furthermore, the identification of voice shall be done by an expert witness that requires scientific and technical examination, therefore, recalling the complainant for such a purpose is neither permissible nor essential for the just decision of the case. According to learned senior counsel, the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It is further contended by learned counsel that the impugned order is cryptic, sketchy, non-reasoned, devoid of merit and thus, deserves to be set-aside.

3. *Per contra*, learned State counsel has opposed the present revision petition and submits that the application under Section 311 Cr.P.C. has been rightly allowed by the Court below as the recall of PW-8 Gagan Dhupar is essential for proper adjudication of the case. Learned State counsel has iterated that the complainant has handed-over two CDs containing his conversation with the accused persons during investigation and the same already stands exhibited As ExMO-6 and Ex.MO-7. However, due to inadvertence, the CDs could not be played during his deposition and the recall of the witness is only to identify his own voice in the said recordings, which is essential for a just decision of the case. According to learned State counsel, no prejudice would be caused to the petitioner-accused as full opportunity of cross-examination shall also be



wide and can be exercised at any stage of the trial to prevent failure of justice. On the strength of these submission, the dismissal of the instant revision petition is prayed for.

4. I have heard learned counsel for the rival parties and perused the paper-book.

5. It would be apposite to refer herein to a judgment passed by this Court in case titled as ***Karamjit Singh vs. State of Punjab and another: 2024 NCPHHC 24178***; relevant whereof reads as under:-

“8.4 As an epilogue to the above rumination, the following principles emerge:

(I) The broad gamut for exercising power by a criminal trial Court under Section 311 of Cr.P.C. are as follows:

(i) The prime factor for considering a plea under Section 311 of Cr.,P.C. is as to whether such evidence “appears to be essential to the just decision of the case.”

(ii) Section 311 of Cr.P.C. can be invoked by a criminal trial Court even when cross-examination of a witness has earlier been foreclosed by a Court order. Such exercise of power by the Court cannot be construed as the concerned Court recalling/reviewing its own order.

(iii) Section 311 of Cr.P.C. empowers a criminal trial Court to even allow further examination/cross-examination of a witness at instance of the prosecution/accused.

(iv) A criminal Court is well within, its judicial discretion, to summon any person as a witness at any stage of proceedings/trial etc. till such Court is seized of the matter.

(v) A criminal trial Court may exercise power under Section 311 of Cr.P.C. on an application made by a party to lis or on its own volition.

(vi) Successive application(s) for summoning same witness for examination/re-examination is not debarred but such a plea deserves to be dealt with exercising a higher degree of circumspection.

(II) No straight jacket formulae can be enumerated regarding mode, manner and extent of exercise of power under Section 311 of Cr.P.C by a criminal trial Court as every case has its own unique facts/circumstances. It is neither possible nor pragmatic to lay down any such exhaustive guide-lines as every case is sui generis in terms of factual conspectus.



(III) Needless to say that exercise of power under Section 311 of Cr.P.C. by a criminal trial Court should be undertaken by according cogent and lucid reasons, in accordance with basic principles of our criminal jurisprudence, for such exercise of its power.”

6. The present revision petition arises out of proceedings in case FIR No.03 dated 09.04.2018 registered at Police Station State Vigilance Bureau, Rohtak under Sections 7, 8 and 13 of the Prevention of Corruption Act, 1988. During the course of trial, the complainant Gagan Dhupar was examined as PW-8. It is the case of the prosecution that during investigation, the complainant had handed-over two mobile phones and two CDs containing recorded conversation with the accused persons which were taken into possession and subsequently exhibited as EX.MO-6 and EX.MO-7. The complainant (PW-8) was examined and cross-examined on multiple dates in the year 2022. However, during his deposition, the CDs could not be played for identification of his voice. After closure of prosecution evidence and hearing of final arguments on 20.12.2024, the State moved an application under Section 311 Cr.P.C. on 13.02.2024 seeking recall of PW-8 for the limited purpose of identifying his voice in the CDs asserting that such omission occurred due to inadvertence and the said identification was necessary for just and proper decision of the case. The accused (petitioner herein) opposed the said application on the ground that it was filed at a belated stage to fill up lacunae and would cause prejudice to the defence. Vide impugned order dated 14.11.2025, the Court below allowed the application by holding that the identification of the voice of the complainant was material and essential for the just decision of the case and that no prejudice would be caused to the accused. Aggrieved, the petitioner has filed the instant revision petition.



7. The factual conspectus of the matter in hand reveals that the CDs in question were handed over by the complainant during investigation and are already part of the record as Ex.MO-6 and Ex.MO-7. The recall of PW-8 (complainant) has been permitted by the Court below only to identify his voice in the said CDs. Furthermore, the Court below has recorded a categorical finding that the CDs could not be played earlier due to inadvertence on the part of the prosecution. The contention of the petitioner that allowing such recall amounts to filling up lacuna is misconceived. A profitable reference in this regard can be made to the judgment of the Hon'ble Supreme Court titled as ***Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461***, wherein it has been clearly held that the recall of a witness cannot be termed as filling up lacuna unless serious prejudice is caused to the accused, resulting in miscarriage of justice. However, no such prejudice is demonstrated in the present case. The argument that the final arguments have already been heard is also of no avail. It is well established principle of law that, in the interest of justice, valuable evidence that may have been omitted due to an oversight or mistake by either party can be brought on record at any stage of the proceedings, provided it is essential for the just decision of the case. Furthermore, no prejudice would be caused to the accused-petitioner, as he shall be afforded an opportunity to scrutinize the authenticity and veracity of the evidence through cross-examination or by presenting his own defence.

8. Section 311 Cr.P.C. confers very wide discretionary power upon the Court to summon, recall or re-examine any witness at any stage of inquiry or trial, if the evidence of such witness appears to be essential for the just decision of the case. The provision casts a duty upon the Court to

**CRR-3214-2025****6**

ensure that justice is not defeated on account of inadvertent omission or procedural lapse.

9. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below. In the considered opinion of this Court, the trial Court has appropriately dealt with the application in question by allowing the same.

10. In view of the prevenient ratiocination, it is ordained thus:

(i) The impugned order dated 14.11.2025 passed by the Additional Sessions Judge, Sonapat does not call for any interference. The same is hereby dismissed. Needless to say that the accused-petitioner shall be at liberty to cross-examine the witness, who produces a CD, in accordance with law.

11. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Court below shall proceed further, in accordance with law, without being influenced therefrom.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

January 22, 2026

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No