SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			UKHC010192532026 **C528/2391/2026** Rajat Singh --Applicant **Versus** State Of Uttarakhand --Respondent **Hon'ble Alok Mahra, J.** Mr. Dharmendra Barthwal, Advocate for the applicant. 2. Mr. Vipul Painuly, A.G.A. for the State. 3. The present criminal misc. application is filed with a prayer to quash/set-aside the order dated 17.08.2026 passed by learned ACJM/II Addl. Civil Judge, (Sr. Div.), Rudrapur, District U.S. Nagar in Criminal Case No. 7977 of 2022, State Vs. Rajat Singh and also to quash/set-aside the order dated 17.09.2026 passed by passed by learned ACJM/II Addl. Civil Judge, (Sr. Div.), Rudrapur, District U.S. Nagar in Criminal Case No. 7977 of 2022, State Vs. Rajat Singh, under Sections 498-A, 323 of IPC and Section 3/4 of Dowry Prohibition Act, 1961, pending in the court of learned ACJM/2nd Addl. Civil Judge (Sr. Div.), Rudrapur, District Udham Singh Nagar. Prayer has also been made to allow the application dated 24.08.2026 filed by the applicant under Section 311 Cr.P.C. 4. Learned counsel for the applicant submits that by the impugned order, the application moved by the applicant under

			Section 311 Cr.P.C. has been dismissed on totally false, frivolous and non-sustainable grounds. Learned counsel also submits that learned Trial Court has not considered the medical certificate submitted on behalf of the Advocate, which was submitted and which was a reason for non-appearance of the Advocate on the date fixed for cross-examination of PW1. Learned counsel for the applicant further submits that finding recorded by the trial court to the effect that allowing application under Section 311 Cr.P.C. would amount to recalling of earlier order dated 17.08.2026 is totally illegal and unsustainable inasmuch as application under Section 311 Cr.P.C. can be allowed by the court at any stage if the Court thinks it fit that the recalling of witness would be necessary to meet the interest of justice. Learned counsel for the applicant also submits that PW1 is complainant himself and denying the applicant the opportunity to cross-examine him would cause grave prejudice, amount to a denial of a fair trial, and result in an abuse of the process of law. 5. *Per contra*, learned State Counsel would submit that there is no infirmity in the order impugned inasmuch as PW1 was examined in chief on 03.07.2026 and thereafter on the request of learned counsel for the applicant, date was fixed for cross-examination of PW1 on 03.08.2026, but, though PW1 was present in the Court for his cross-examination, but, the learned counsel for the applicant did not cross-examine PW1 and move an application for seeking adjournment; that thereafter application for adjournment was allowed subject to the cost of Rs. 1000/- and the next date fixed in the matter was 17.08.2026; that on the next date fixed i.e. 17.08.2026, again

			adjournment was moved on behalf of the applicant on the ground that senior counsel appearing for the applicant is suffering from viral fever and, as such, cross-examination could not be conducted. The application for cross-examination was rejected and the court passed an order that the opportunity of the applicant to cross-examine PW1 was closed. Thereafter, applicant moved an application under Section 311 Cr.P.C. for recalling PW1 and permitting the applicant to cross-examine PW1. By the impugned order, the said application has been dismissed. 6. Heard learned counsel for the parties and perused the record. 7. After perusing of the record, it reflects that PW1 was examined in chief on 03.07.2026. On that date, the applicant did not cross-examine PW1. The next date fixed in the matter was 03.08.2026. On that too, applicant did not cross-examine PW1, but, instead moved an exemption application. His exemption application was allowed subject to the cost of Rs. 1000/- and the next date fixed in the matter was 17.08.2026. Thereafter, on the next date fixed i.e. 17.08.2026, again adjournment was moved on behalf of the applicant on the ground that senior counsel appearing for the applicant is suffering from viral fever and has gone to hospital at Kashipur for his medical examination. 8. Section 311 of Cr.P.C. provides that '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' and in the present case, PW1 is the complainant himself, therefore, in the interest of justice, this Court thinks it fit and necessary that the applicant

			be granted one more opportunity to cross-examine the PW1/complainant as the application given by applicant's counsel for his non-appearance on the date fixed for cross-examination was supported by a medical report and there was genuine reason for the applicant's counsel for seeking exemption on that date. 9. Accordingly, the present criminal misc. application is allowed. The impugned order dated 17.09.2026 passed by passed by learned ACJM/II Addl. Civil Judge, (Sr. Div.), Rudrapur, District U.S. Nagar in Criminal Case No. 7977 of 2022, State Vs. Rajat Singh, under Sections 498-A, 323 of IPC and Section 3/4 of Dowry Prohibition Act, 1961 is hereby set-aside. Consequently, the application dated 24.08.2026 filed by the applicant under Section 311 Cr.P.C. is allowed, subject to the condition of applicant paying Rs. 5000/- to the complainant and furthermore learned Trial Court is hereby requested to summon PW1 for cross-examination. However, it is made clear that if the applicant fails to cross-examine PW1 on the next date fixed by the Trial Court concerned, then no further opportunity would be granted to him. **(Alok Mahra J.)** 29.10.2026 Ujjwal