SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			UKHC010197092026 **C528/2461/2026** Monu Alias Rohit Kumar --Applicant **Versus** State Of Uttarakhand --Respondent **Hon'ble Alok Mahra, J.** Mr. Akshay Pradhan, Advocate for the applicant. 2. Mr. V.S. Pal, A.G.A. for the State. 3. The present criminal misc. application is filed with a prayer to quash/set-aside the order dated 15.09.2026 passed by learned FTSC/Addl. District Judge, Roorkee, District Haridwar in Special Sessions Trial No. 07 of 2026, whereby, the application dated 21.07.2026 filed by the applicant under Section 348 of BNSS has been rejected by the learned Trial Court, in which, applicant has sought to recall PW1, PW2 and PW3. 4. Learned counsel for the applicant submits that though the applicant has cross-examined PW1, PW2 and PW3, but, some relevant questions, which go to the root of the matter and are necessary for the just and proper decision and adjudication of the case, were not asked in the initial cross-examination and after engaging a new counsel, on his professional advice, application under Section 348 of BNSS was

			filed. 5. *Per contra*, learned State Counsel submits that the application filed under Section 348 of the BNSS has rightly been dismissed by the learned Trial Court. He argues that the provisions of Section 348 of the BNSS cannot be used to fill the lacunae left by the defense. He further emphasizes that ample liberty and opportunity were granted to the applicant to cross-examine PW1, PW2, and PW3, which was fully availed of. He submits that a change of counsel is no legal ground to recall witnesses to examine them all over again. 6. Heard learned counsel for the parties and perused the record. 7. This Court finds some substance in the arguments, as advanced by learned State Counsel 8. The primary ground raised by the applicant for recalling PW1, PW2, and PW3 is that certain crucial questions were left out during their initial cross-examination, which was conducted by his previous counsel. It is a well-settled principle of criminal jurisprudence that a mere change of defense counsel cannot be accepted as a valid legal ground to recall witnesses, who have already been extensively cross-examined. If such requests are allowed as a matter of course, it would lead to an endless trial, cause undue harassment to witnesses. 9. Furthermore, the extraordinary power to summon or recall witnesses under Section 348 of BNSS (which corresponds to Section 311 of the Cr.P.C.) is an enabling provision intended to meet the ends of justice and

			arrive at a just decision. However, this judicial discretion must be exercised with immense caution and circumspection. It cannot be invoked by the defense to fill up gaps, cure omissions, or reconstruct its case after the evidence has already been recorded. 10. A perusal of the record reveals that the applicant was afforded a fair and sufficient opportunity to cross-examine the prosecution witnesses. Hence, the learned Trial Court, vide its order dated 15.09.2026, has rightly observed these boundaries and exercised its discretion judiciously. This Court thus finds no illegality, perversity, or jurisdictional error in the impugned order that warrants interference under the inherent jurisdiction of this Court. Consequently, the present criminal miscellaneous application lacks merit and the same is hereby dismissed. 11. Pending applications, if any, stand disposed of accordingly. **(Alok Mahra J.)** 03.11.2026 Ujjwal