



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

(125)

**CRM-M-30043-2025
Date of Decision: 08.7.2025**

Gurmeet Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

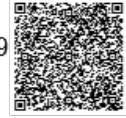
CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ajeet Pal Singh Pakka, Advocate
for the petitioner.

KIRTI SINGH, J. (ORAL)

1. The instant petition has been filed against the impugned order dated 29.4.2025 (Annexure P-11) passed by the learned Judicial Magistrate Ist Class, Ludhiana, in case FIR No. 09 dated 19.1.2018 under Section 498-A IPC (Section 406 IPC added later on), registered at Police Station Women, District Ludhiana, whereby an application preferred by the prosecution under Section 311 Cr.P.C. for recalling the complainant Gurmeet Kaur (PW-1), her brother Gurpreet Singh (PW-2) and her mother Sawaran Kaur (PW-3) for their cross-examination, has been dismissed.

2. The brief factual matrix is that the aforesaid FIR was filed upon the complaint moved by the petitioner against respondent No. 2 and his family members. The trial commenced and charges were framed under Section 498-A and 406 IPC (added later on). An application dated 6.6.2019 moved on behalf of the prosecution under Section 319 Cr.P.C. stood dismissed on 19.3.2021. Meanwhile, two mediation attempts to settle the dispute between the parties were made, but to no avail. The prosecution evidence was closed and thereafter statement of the accused-respondent



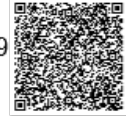
No. 2 was recorded under Section 313 Cr.P.C. on 13.3.2024. It was thereafter on 7.4.2025 that the instant application under Section 311 Cr.P.C. for recalling of PW-1, PW-2 and PW-3 for their cross-examination was moved, which was dismissed vide impugned order dated 29.4.2025 (Annexure P-11).

3. Learned counsel for the petitioner *inter alia* submits that the learned trial Court concerned has erred in dismissing the instant application as both the petitioner and her brother are the material witnesses. Moreover, the examination-in-chief of PW-1 to PW-3 have been conducted but they have been partly cross-examined. Furthermore, the statement of the witnesses i.e. PW-1 and PW-2 dated 13.3.2025 (Annexure P-7) to the effect that they do not want to face the cross-examination. It is also submitted that their statements were got recorded under the false compromise and assurance taking advantage of illiteracy of the petitioner and her brother in the absence of their counsel. It is further contended that the instant application filed by the prosecution is in utter abuse of process of law. It is further contended that the learned trial Court in the impugned order has wrongly observed that the petitioner and her family are trying to delay the proceedings. Therefore, it is prayed that the impugned order be quashed and set aside.

4. Notice of motion to the State-respondent No. 1 only at this stage.

5. Ms. Guramrit Kaur, DAG, Punjab waives service of notice on behalf of the respondent-State.

6. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, this Court finds no force in the arguments advanced by the learned counsel for the petitioner. The present petitioner is decided in *limine* in order to save litigation cost of the respondent and also to save the judicial time of the Court.



7. Before proceeding further, it would be apposite to refer to the provisions encapsulated in Section 311 Cr.P.C. The provisions are extracted hereinafter:

“311. Power to summon material witness, or examine person present:

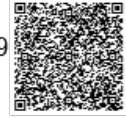
Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or, recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

8. The Hon'ble Supreme Court, in ***V. N. Patil Vs. K. Niranjan***, reported in ***2021 (2) R.C.R. (Criminal) 310***, while examining the scope of Section 311 Cr.P.C observed that:

"Object underlying Section 311 Cr.P.C is that there may not be failure of justice on account of mistake of either party in bringing 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 significant expression that occurs is 'at any stage of enquiry or trial or other proceeding under this Code'. It is however, to be borne in mind that the discretionary power conferred under Section 311 CrPC has to be exercised judiciously, as it is always said wider the power, greater is the necessity of caution while exercise of judicious discretion."

9. This principle has also been reiterated in ***Swapan Kumar Chatterjee v. Central Bureau of Investigation***, reported in ***2019(14) SCC 328***, the relevant paras of which read thus:

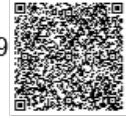
"11. It is well settled that the power conferred under Section 311 should be invoked by the court only to meet the ends of justice. The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumspection. The court has vide power under this section to even recall



witnesses for reexamination or further examination, necessary in the interest of justice, but the same has to be exercised after taking into consideration the facts and circumstances of each case. The power under this provision shall not be exercised if the court is of the view that the application has been filed as an abuse of the process of law."

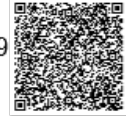
10. Reverting to the case at hand, the operative part of the impugned order, is reproduced hereinafter.

"In the instant case, reference can be made to the detailed zimni orders wherein due opportunities were granted to the prosecution as well as the complainant. Perusal of the file reveals that the charge in this present case was framed on 29.08.2018. Thereafter, the complainant filed an application under Section 319 Cr.P.C which was dismissed on 19.03.2021. The witnesses remained present on 29.01.2021 but were not examined on their own request. Thereafter, the complainant kept coming in court along with her family members/witnesses namely Gurpreet Singh, Gurbachan Singh and Swaran Kaur on various adjournments but did not get themselves examined. It has been recorded in the zimni orders that witness namely Gurpreet Singh moved exemption applications from appearance in court on at least 8 adjournments. Similarly, the complainant namely Gurmeet Kaur remained present in the court for at least 10 adjournments but did not get herself examined on her own request. The case was adjourned for examination of the complainant and her family members as witnesses. Thereafter, the witnesses did not come present in court despite being bound down on certain adjournments. The complainant further moved applications under Section 216 Cr.P.C and 311 Cr.P.C which caused much delay in the proceedings of this trial. The presence of the complainant and her family members was thereafter procured by non-bailable warrants of arrest. After appearing in court on 04.03.2025, the statement was suffered by the complainant that she intended to compromise with the present accused with certain conditions mentioned therein. Thereafter, on 13.03.2025 the complainant and Gurpreet Singh, her brother came in court and suffered their statement that they did not want to face cross-examination. Seeing the conduct of the witnesses and the number of



opportunities having been granted to the prosecution, the undersigned was constrained to record the statement of the accused persons under Section 313 Cr.P.C and to proceed further with the trial. While the case was fixed for defence evidence, the present application was filed. From the discussion as stated above, it is amply clear that the complainant and her family members are hell-bent to delay the proceedings of this case and during the same, the rights of the accused of speedy trial as enshrined under Article 21 of the Constitution of India is getting prejudice. The complainant cannot be allowed to blow hot and cold at the same time. In light of the observations made by the Hon'ble Supreme Court in Zahir Habibulla H. Sheikh's case (supra), the undersigned is not inclined to allow the present application. Thus, the present application u/Section 311 Cr.P.C (now 348 BNSS) stands dismissed.”

11. A perusal of the above would reveal that after the framing of the charge, the complainant moved an application under Section 319 Cr.P.C., which was dismissed on 19.3.2021. On 29.1.2021, the witnesses appeared before the Court but could not be examined on their request. Moreover, the witness namely Gurpreet Singh moved various applications for exemption from personal appearance. Similarly, complainant Gurmeet Kaur though remained present for at least 10 adjournments but did not get herself examined on her own request. Subsequently, the witness did not come present before the Court concerned and their presence was procured by non-bailable warrants. Thereafter, on 4.3.2005, the complainant appeared before the Court concerned and suffered a statement to the effect that she intended to compromise with the present accused. Subsequently, on 13.3.2005 the complainant and her brother Gupreet Singh appeared before the Court concerned and suffered a statement to the effect that they did not want to face cross-examination. Resultantly, the learned trial Court concerned after observing the conduct of the above witnesses and the number of opportunities being granted to them, proceeded to record the statements of



the accused under Section 313 Cr.P.C. Resultantly, the learned trial Court concerned, has rightly exercised its power in dismissing the present application as the said seems to be filed to delay the proceedings of the present case.

12. The foundational premise underpinning Section 311 Cr.P.C. is that the Court is not a passive bystander in the trial process, rather is an active participant invested with wide discretion to summon any witness at any stage of the proceedings, if such witness appears to be essential for arriving at a just decision. The Court's duty transcends procedural technicalities and its primary obligation is to ensure that truth is not obscure for want of relevant evidence.

13. Therefore, this Court is of the considered view that the impugned order, does not suffer from any infirmity or any vice of illegality. The same being speaking, well reasoned and based upon correct appreciation of facts needs no interference.

14. In consequence, the present petition stands dismissed.

15. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

July 08, 2025
Gurpreet Singh

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