



CRR-2191-2019(O&M)

- 1 -

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

CRR-2191-2019(O&M)

Reserved on :13.05.2025**Pronounced on: 04.07.2025**

Swati Kataria

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Petitioner in person.

Mr. Anmol Malik, DAG, Haryana.

Mr. K.P.S. Virk, Advocate for respondent No.2.

KIRTI SINGH, J.(Oral)

The present revision petition has been filed for quashing of the order dated 10.07.2019 passed by learned Addl. Sessions Judge, Karnal in case bearing FIR No.694 dated 27.10.2016, under Sections 323, 325, 307, 354 and 506 IPC, registered at Police Station Assandh, Karnal, vide which the application under Section 311 Cr.P.C. filed by the petitioner has been dismissed.

2. The brief factual matrix of the case is that the instant FIR was registered upon a written complaint submitted by the petitioner on 26.10.2016, alleging therein that the petitioner and her family had been facing constant harassment at the hands of the accused persons for the transfer of ownership of the agricultural land owned by them. On 19.10.2016 when the petitioner along with her mother was heading back



CRR-2191-2019(O&M)

- 2-

to Karnal after supervising the harvest of the crops planted in their agricultural land, they apprehended that they were being followed and therefore they started to head back towards their village, when a vehicle rammed into their car with great force. The petitioner got down to check the damage done to her car, when she saw the number plate of the offending car of the make of Volkswagen Vento. It was then she spotted the same car heading towards them once again, whereafter she ran and sat in her car. It is submitted that then allegedly Baba Badbhangh Singh along with Narender Singh, Gurdial Singh, Inderjeet Singh along with two-three other persons pulled the petitioner out of her car and started assaulting her. On seeing this, the mother of the petitioner rushed out from the car to rescue her, upon which Hardeep Singh, Mandeep Singh, Inderjeet Singh, Sidder, Gurdeep Singh and one other person alighted from the car, whereafter Mandeep Singh raised a Lalkara to kill the mother of the petitioner, who was then attacked with wooden sticks and run over by their car. Meanwhile the petitioner was also assaulted and molested by the accused, who ran away upon spotting light coming from a distant vehicle. The petitioner thereafter made frantic calls to her brother, and in a short span of time the PCR arrived and the petitioner along with her mother were taken to a local hospital from where they were sent to civil hospital, Karnal in an Ambulance. Due to the critical condition of the mother of the petitioner, she was referred to PGI, but the petitioner chose to get her admitted at Fortis Hospital, Mohali. The investigating agency on 3-4 occasions could not get the statement of the mother of the petitioner recorded as she had been declared unfit for that purpose by the



doctors. Meanwhile, after the lodging of the FIR, challan was presented only against the accused Mandeep Singh while all the other accused persons exonerated by the investigating agency. The trial commenced, however, it was only after the completion of evidence when the case was adjourned for hearing of arguments on behalf of the state that the petitioner had moved an application under Section 311 Cr.P.C. seeking permission to lead additional evidence by way of summoning and examining the witnesses, which was dismissed vide impugned order dated 10.07.2019. Aggrieved by the same the petitioner has filed the present petition.

3. The petitioner submits that an application under Section 311 Cr.P.C. for examination of doctors and hospital staff of concerned hospital as witnesses was moved before the learned Trial Court in order to produce CT scan report, X-ray report and other films prepared by the staff of Fortis and Landmark Hospital which were not submitted along with the final report submitted under Section 173 Cr.P.C. by the investigating agency. The witnesses proposed to be summoned are essential for just and proper decision of the case and the petitioner cannot be made to suffer due to an inadvertent lapse on the part of the prosecution in not placing the requisite documents on record and naming the concerned witnesses. This came to the knowledge of the petitioner only when the case was being prepared for arguments. She submits that no prejudice would be caused to the other party if in case the application is allowed. Hence, it is prayed that the impugned order may be set aside and the proposed witnesses be allowed to be summoned.



CRR-2191-2019(O&M)

- 4 -

4. Learned State counsel submits that the application moved under section 311 Cr.P.C. was dismissed after proper application of mind, by way of a detailed and well reasoned order, and after giving due consideration to the facts and circumstances of the case. Thus, the same may be upheld by this Court and the present petition be dismissed.

5. Learned counsel appearing for respondent No.2 submits that the application has been filed with a motive to delay the trial and to fill in the lacunas in the case of the prosecution. The record sought to be summoned was well within the knowledge of the petitioner and were in her possession since the very beginning of this case. As many as 23 opportunities were granted to the prosecution for leading the evidence and the application has now been moved at the stage of final arguments in order to fill the lacuna in prosecution evidence.

6. Heard.

7. At the outset, it would be pertinent to mention that the provision of Section 397 (2) of the Cr.P.C. imposes an express bar on the Courts to adjudicate interlocutory orders by exercising their revisional powers. With respect to invocation of revisional jurisdiction of the High Courts to challenge orders deciding applications moved under Section 311 Cr.P.C, it was conclusively held by the Hon'ble Supreme Court that the same is not maintainable. It was observed in **Sethuraman vs. Rajamanickam: 2010(5) RCR (Criminal) 512** that, "4. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311



CRR-2191-2019(O&M)

- 5-

Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C.”

8. Even on merits, the petitioner has neither been able to put forth any cogent and convincing reasons nor has been able to point out any illegality in the impugned order that would warrant interference by this Court.

9. A perusal of the case at hand, reflects that the application under Section 311 Cr.P.C. was moved at the belated stage when the evidence of the parties was closed and the final arguments were heard partly on 02.07.2019. Infact, 23 opportunities had been granted to the prosecution for leading its evidence. This is not a case where the factum of the existence of record proposed to be summoned came to the knowledge of the petitioner at a later stage. Further, two witnesses appearing on behalf of the prosecution i.e. PW-10 Dr. Ajay Bhambri and PW-11 Dr. Parminder Singh had already given statements to prove the nature of injuries suffered by the victim. Adverting to the merits of the application moved under Section 311 of the Cr.P.C. by the petitioner, this Court does not find any merit in the submissions made by her.

10. The Hon'ble Supreme Court, in **V. N. Patil Vs. K. Niranjan, 2021 (2) R.C.R. (Criminal) 310**, while examining the scope of Section 311 of 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."

11. Trite to say that though the Court is vested with the power to call witnesses at any stage in order to meet the ends of justice, however, it must be cautioned to ensure that the same is not sought to be invoked only to fill up the lacunas left behind in a case, or be used as a tactic to delay the proceedings. The Court must make sure that the process itself does not end up becoming a punishment for the accused.

12. In light of the foregoing discussion and in view of the judgments referred to herein-above, this Court is of the considered view that the impugned order was passed after taking into account all the facts and circumstances as also the arguments advanced and evidence produced before it. The same being speaking, well reasoned and based upon correct appreciation of facts needs no interference. As a corollary, the present revision petition stands dismissed.

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

(KIRTI SINGH)
JUDGE

04.07.2025

Kapil

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No