



CRM-M-22329-2022 (O &amp; M)

-1-

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

210

CRM-M-22329-2022 (O & M)  
Date of decision : 07.05.2025

Sahabuddin

... Petitioner

Versus

State of Haryana and another

.. Respondents

**CORAM : HON'BLE MR. JUSTICE H.S.GREWAL**

Present:- Mr. Tanmoy Gupta, Advocate for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

Mr. Karan Pathak, Advocate for respondent No.2.

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**H.S. Grewal, J.(Oral)**

1. This petition has been filed under Section 482 Cr.P.C., for setting aside the order dated 02.04.2022 passed by the learned Sessions Judge, Palwal (Annexure P-3), whereby the application dated 07.01.2022 filed under Section 311 Cr.P.C. by the petitioner in case FIR No.38 dated 17.03.2018, registered under Sections 148, 149, 323, 506, 307 IPC at Police Station Hassanpur, District Palwal was dismissed.

2. Learned counsel for the petitioner submits that the petitioner has moved an application under Section 311 Cr.P.C. on 07.01.2022 (Annexure P-2) for examining the material witness/injured, namely, Mujahid s/o Sahabuddin and Dr. Dinesh, Medical Officer, G.H. Palwal. Learned counsel further



**CRM-M-22329-2022 (O & M)**

**-2-**

submits that the injured-Mujahid is the son of the petitioner/complainant who suffered a head injury in the incident and went into coma and therefore, his statement could not be recorded. Mujahid had been examined by Dr. Dinesh, M.O., G.H., Palwal, who had also not been cited as a witness.

3. Learned State counsel, while referring to the status report filed by way of an affidavit of the Deputy Superintendent of Police, Hodal, District Palwal, submits that during the course of investigation, the complainant was asked to get recorded the statement of his injured son, but he urged that his son was in coma and 75% permanently disabled because of the injury.

4. I have heard learned counsel for the parties and have carefully perused the material available on record.

5. The trial Court, while dismissing the application under Section 311 Cr.P.C., has observed in the impugned order dated 02.04.2022 (Annexure P-3) that the statement of Mujahid cannot be allowed to be recorded since his statement under Section 161 Cr.P.C. was not recorded as he was in coma at that time following which he could not be confronted with that statement. This contention is not acceptable as the investigating agency has repeatedly asked the petitioner to get recorded the statement of the injured-Mujahid. At present, it is stated that injured-Mujahid has risen from his coma and is able to get his statement recorded.

6. Insofar as Dr. Dinesh, M.O., G.H., Palwal, who was not cited as a witness is concerned, the disability certificate issued by him is a subsequent development which cannot be permitted to be taken on record through his evidence and therefore, his statement need not to be recorded.



**CRM-M-22329-2022 (O & M)**

**-3-**

7. In view of the above, the impugned order is set aside qua the examination of injured-Mujahid and the petition is partly allowed. The statement of injured-Mujahid be recorded as a prosecution witness. The trial Court is directed to afford one effective opportunity to examine the injured-Mujahid and his cross-examination also be done on the same date.

8. Pending applications, if any, shall also disposed of.

**(H.S.GREWAL)**  
**JUDGE**

**07.05.2025**  
A.Kaundal

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