



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-31632-2025
Date of Decision: 08.07.2025

RAJESH NAKRA AND ANR.

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasraj Singh, Advocate for the petitioners.

SANDEEP MOUDGIL, J

1. Jurisdiction of this court has been invoked under section 528 of Bharatiya Nagarik Suraksha Sanhita, ["BNSS"] 2023, praying for setting aside of the order dated 06.11.2024 (Annexure P-9) passed by the Court of Ld. Judicial Magistrate 1 Class, Hoshiarpur, in the trial arising out of case FIR No. 132 dated 20.12.2015 (Annexure P-1) registered at Police Station City, District Hoshiarpur, for the offences punishable under Section 420, 120-B of the Indian Penal Code, 1860, whereby an application dated 18.01.2023 filed by the Petitioner No. 1 (complainant) under Section 311 of the Code of Criminal Procedure, seeking summoning of record from Punjab National Bank, Law Department, Zonal Office, Shimla, with regard to one Internal Vigilance Report' of M/s Alpine Pressure Cooker and Kitchen Pvt. Ltd., Gagret, Una (H.P.)



prepared by one Ashok Kumar Passi, Internal Chief Auditor, Zonal Audit Office, Cart Road, Shimla, came to be dismissed, in view of the facts and circumstances of the case, in the interest of justice.

2. Learned counsel for the petitioner would vehemently argue that Trial Court erred in dismissing the application under Section 311 CrPC without considering the necessity and relevance of the documents sought to be summoned. These documents relate to an internal bank inquiry which conclusively found that the respondents-accused relied on fake properties to fraudulently secure enhancements in their credit limit. The Internal Vigilance Report dated 12.05.2016 clearly indicated the need for a thorough investigation, including involvement of revenue and police authorities, who did not respond to the bank's requests for cooperation.

3. It is further contended that Trial Court's observation that the complainant was already aware of the documents and that no new facts had emerged overlooked the critical purpose of the provision. These documents are crucial to the prosecution's case and thus the concerned bank official should have been summoned to authenticate them. Further, the Court's view that the application was filed merely to delay proceedings is also misplaced as the petitioners obtained the certified copy of the Internal Vigilance Report only on 12.01.2023 and then he promptly filed the application on 18.01.2023.

4. Heard learned counsel for the petitioner at length.

5. The present petition pertains to grievance of the petitioner against the impugned order dated 06.11.2024 passed by the trial court whereby an application dated 18.01.2023 filed by the Petitioner No. 1 (complainant) under Section 311 of the Code of Criminal Procedure, seeking summoning of record



from Punjab National Bank, Law Department, Zonal Office, Shimla, with regard to one Internal Vigilance Report' of M/s Alpine Pressure Cooker and Kitchen Pvt. Ltd., Gagret, Una (H.P.) prepared by one Ashok Kumar Passi, Internal Chief Auditor, Zonal Audit Office, Cart Road, Shimla, came to be dismissed.

6. Before delving into the merits of the case, it would be apposite to discuss section 311 Cr.P.C. which is reproduced herein below:-

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 Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined; and the Court shall summon and examine or re-call and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

7. Further, the Apex Court in “**Vijay Kumar vs State of U.P. & Anr, 2011 (8) SCC 136**” has held that :-

“Though Section 311 confers vast discretion upon the court and is expressed in the widest possible terms, the discretionary power under the said section can be invoked only for the ends of justice. Discretionary power should be exercised consistently with the provisions of the code and the principles of criminal law. The discretionary power conferred under section 311 has to be exercised judicially for reasons stated by the court and not arbitrarily or capriciously”

8. An application under section 311 Cr.P.C must not be allowed only to fill up a lacuna in the case of the prosecution, or of the defence, or to the



disadvantage of the accused, or to cause serious prejudice to the defence of the accused, or to give an unfair advantage to the opposite party . What is required to be seen is the essentiality of the evidence sought to be brought on record.

9. The present application under Section 311 Cr.P.C. seeks summoning of records from the Punjab National Bank, Zonal Office, Shimla, specifically the Internal Vigilance Report concerning M/s Alpine Pressure Cooker and Kitchen Pvt. Ltd., Gagret, Una (HP), prepared in Complaint No. 138 NIA/73/2014 by Shri Ashok Kumar Passi, Internal Chief Auditor. Learned counsel for the applicant contends that this report, arising from a separate internal complaint, implicates certain bank officials as co-conspirators with the accused in the alleged fraud. However, it is evident from the case record that the applicant was aware of the existence of these documents from the outset of the present case. There is no new fact or discovery justifying the belated request to summon this evidence. Additionally, the petitioner has failed to provide any substantive detail regarding the proceedings under Section 138 of the Negotiable Instruments Act where this report allegedly surfaced.

10. It is also relevant that a prior application under Section 319 Cr.P.C. seeking to array bank officials as co-accused was already dismissed.

11. In view of the above, this Court finds no merit in the application, which appears to be motivated by delay rather than necessity. Accordingly, the application stands dismissed.

12. Taking into consideration the above stated facts, I do not find considerable merit in the present petition and therefore, the same is dismissed and the order passed by JMIC, Hoshiarpur dated 06.11.2024 (Annexure P-9) is hereby upheld qua the petitioner.



13. It is made clear that the Trial court shall proceed with the trial in accordance with the law and conclude the same as expeditiously as possible.

14. Accordingly ordered.

08.07.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

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