



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

**CRM-M No.16131 of 2025**  
Date of decision: 2<sup>nd</sup> April, 2025

Prithipal Singh

... Petitioner

Versus

State of Punjab

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Amit Arora, Advocate for the petitioner.

**MANJARI NEHRU KAUL, J.**

1. The petitioner has invoked the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the order dated 01.03.2025 (Annexure P-6) passed by the Court of learned Additional Sessions Judge, Tarn Taran. By the impugned order, the learned trial Court allowed the application under Section 311 of Cr.P.C. filed by the prosecution, permitting the recall of prosecution witness PW-1 Barinderpal Singh, for further examination and for the production of a certificate under Section 65-B of the Indian Evidence Act. Learned counsel for the petitioner contends that the said order is erroneous, arbitrary, and contrary to settled legal principles, as it effectively enables the prosecution to fill up lacune in its case.

2. The factual matrix of the case stems from FIR No.16 dated 14.07.2021 registered under Section 7 of the Prevention of Corruption

Act, 1988 as amended by Prevention of Corruption (Amendment) Act, 2018 along with Sections 420, 120-B of the IPC. Subsequently, offenses under sections 465, 467, 468 and 471 IPC were added. The case pertains to allegations of corruption and fraud registered at Police Station Vigilance Bureau, Amritsar.

3. Learned counsel for the petitioner has vehemently argued that the application moved by the prosecution under Section 311 of Cr.P.C. was filed at a belated stage, after the partial conclusion of the cross-examination of PW-1 Barinderpal Singh. It is contended that the prosecution failed to produce the certificate under Section 65-B of the Evidence Act at the appropriate stage and is now attempting to introduce it through a supplementary examination of PW-1, thereby curing a fundamental defect in its case. It has been further asserted that such an approach is legally impermissible, as it amounts to filling up a lacuna rather than rectifying a procedural omission.

4. Reliance has been placed upon '**Rajaram Prasad Yadav vs State of Bihar and another**' 2013 AIR (SC) (Cri) 1746, wherein the Hon'ble Supreme Court observed that power under Section 311 Cr.P.C. should not be exercised to allow the prosecution to fill gaps in its case. References has also been made to '**Swapan Kumar Chatterjee vs. Central Bureau of Investigation**' 2019 (2) RCR (Criminal) 162, wherein a similar view was reiterated by the Hon'ble Supreme Court.

5. I have heard learned counsel for the petitioner and perused the relevant material on record.

6. A plain reading of the impugned order (Annexure P-6) reveals that no fresh evidence is being introduced by the prosecution. The trial Court has merely permitted further examination of PW-1 with respect to an already existing piece of evidence. The contention that this amounts to filling up a lacuna is, therefore, misplaced. It is pertinent to note that PW-1 Barinderpal Singh had not been earlier examined with respect to the conversation between him and the accused, as the forensic examination of the voice sample was pending. The report from the FSL was received belatedly, making it necessary to seek further examination of PW-1 Barinderpal Singh.

7. The argument of the learned counsel for the petitioner that the certificate under Section 65-B of the Evidence Act must be produced at the time of introducing the electronic record, is also without merit. The Hon'ble Supreme Court in '**Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal**' 2020 (7) SCC 1, has clarified that while compliance with Section 65-B (4) of the Evidence Act is mandatory, its procedural nature allows for some flexibility. The Hon'ble Supreme Court has held that in appropriate cases, the prosecution may be permitted to produce the certificate at a later stage, provided no prejudice is caused to the accused. The relevant observations of the Hon'ble Supreme Court are as follows:

*“54. Therefore, in terms of general procedure, the prosecution is obligated to supply all documents upon which reliance may be placed to an accused before commencement of the trial. Thus, the exercise of power by*

*the courts in criminal trials in permitting evidence to be filed at a later stage should not result in serious or irreversible prejudice to the accused. A balancing exercise in respect of the rights of parties has to be carried out by the court, in examining any application by the prosecution under Sections 91 or 311 of the CrPC or Section 165 of the Evidence Act.*

*Depending on the facts of each case, and the Court exercising discretion after seeing that the accused is not prejudiced by want of a fair trial, the Court may in appropriate cases allow the prosecution to produce such certificate at a later point in time. If it is the accused who desires to produce the requisite certificate as part of his defence, this again will depend upon the justice of the case - discretion to be exercised by the Court in accordance with law.”*

8. Adverting to the present case, the application moved by the prosecution under Section 311 Cr.P.C. does not seek to introduce any new or additional evidence, but merely aims to complete the evidentiary requirements concerning an existing piece of electronic evidence. The production of the certificate under Section 65-B of the Evidence Act is not substantive evidence in itself but a procedural requirement for the admissibility of electronic evidence. The petitioner has failed to demonstrate how the accused would suffer any prejudice by the introduction of this certificate at this stage.

9. Furthermore, Section 311 of the Cr.P.C. is a procedural provision designed to ensure that all material evidence necessary for a just adjudication of the case is brought on record. The power under this

provision is broad and enables the Court to summon or recall any witness at any stage of the trial if such action is necessary for the just decision of the case. It needs to be reiterated that the object of Section 311 Cr.P.C. is to ensure that justice is done and that no crucial piece of evidence is left out. The trial Court, in allowing the application, has exercised its discretion judiciously, keeping in mind the larger interest of justice and ensuring that all relevant evidence is considered before arriving at a final decision.

10. In view of the foregoing discussion, this Court finds no legal infirmity or perversity in the impugned order passed by the trial Court. The learned counsel for the petitioner has not been able to demonstrate any irreparable prejudice that would be caused by such an exercise.

11. Consequently, this Court does not find any ground to interfere in the impugned order. The present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**April 2, 2025**

*rps*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No