



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

124

CRM-M-15412-2025 (O&M)

Date of Decision: 26.03.2025

BEDI RAM AND ANR

...Petitioners

Versus

BEENA

..Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Sumit S. Bairagi, Advocate for the petitioners.

KIRTI SINGH, J.(Oral)

This petition under section 528 BNSS for the quashing of the order dated 18.10.2024 (Annexure P-6) passed by learned JMIC Faridabad in a complaint case bearing no.COMA/544/2017 titled as "*Beena Vs. Hemant Kumar*", whereby the application filed by the petitioners under Section 311 Cr.P.C. for cross examination of the complainant/respondent was dismissed.

2. Brief factual matrix of the case is that the respondent moved a complaint under Section 12 of the Domestic Violence Act, alleging harassment for demand of dowry and physical and mental cruelty, pursuant to which, petitioners were put to trial. However, it is averred that the cross-examination of the respondent could not be conducted qua the petitioners, for which an application under Section 311 Cr.P.C. was moved, which was dismissed vide order dated 18.10.2024 (Annexure P-6). Aggrieved by the same, the petitioners have moved the present petition seeking re-examination of respondent.



3. Learned counsel for the petitioners *inter alia* submits that the cross-examination of the respondent was repeatedly interrupted by her counsel before the trial Court, because of which, the same could only be completed qua the husband of the respondent and could not be conducted on behalf of the petitioners, thus defeating their right to cross-examine the respondent and establish their case. Learned counsel submits that he would be satisfied in case one last effective opportunity is granted to the petitioners to re-conduct the cross-examination of the respondent.

4. The present petition is decided *in limine* in order to save litigation cost of the respondent and also to save the judicial time of the Court.

5. Before adjudicating the matter it would be apposite to reiterate the settled law that the inherent powers of the High Court are wide and plenary, and can be invoked, to secure the ends of justice, notwithstanding any legal impediment. The Constitutional Bench in **Prabhu Chawla v. State of Rajasthan, 2016(4) RCR(Criminal) 270** observed thus:

“6. In our considered view any attempt to explain the law further as regards the issue relating to inherent power of High Court under Section 482 Cr.P.C. is unwarranted. We would simply reiterate that Section 482 begins with a non-obstante clause to state: "Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice." A fortiori, there can be no total ban on the exercise of such wholesome jurisdiction where, in the words of Krishna Iyer, J. "abuse of the process of the Court or other extraordinary situation excites the court's jurisdiction. The limitation is self-restraint, nothing more." We venture to add a further reason in support. Since



Section 397 Cr.P.C. is attracted against all orders other than interlocutory, a contrary view would limit the availability of inherent powers under Section 482 Cr.P.C. only to petty interlocutory orders! A situation wholly unwarranted and undesirable.”

6. Reverting to the case at hand, the petitioners have approached this Court to challenge the order whereby the application filed by the petitioners under section 311 CrPC for re-examining the respondent was dismissed. The provision under Section 311 Cr.P.C. reads thus:

“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.”

7. 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."

8. This principle has also been reiterated in **Swapan Kumar Chatterjee v. Central Bureau of Investigation, 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."

9. The allegations levelled against the petitioners are of a serious nature, and it has been the strenuous argument of the learned counsel for the petitioners that the right to cross-examine respondent qua the present petitioners, if defeated, would greatly prejudice the case of the petitioners and will have a strong bearing on the outcome of the case.

10. Be that as it may, in the interest of justice, the impugned order dated 18.10.2024 is set aside and one effective opportunity to cross-examine the prosecution witness is granted, **subject to payment of cost of Rs.5,000/- to be paid by the petitioners to the respondent.**

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

(KIRTI SINGH)
JUDGE

26.03.2025

Kavita

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No