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

**CRM-M-2053-2025
Date of Decision: 16.01.2025**

Amrik Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Deepak Aggarwal, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 04.12.2024, passed by learned Additional Sessions Judge, Bathinda whereby the application under Section 311 Cr.P.C. moved by the petitioner (accused) for recalling of PW-1 Arshdeep Singh in FIR No.89 dated 22.04.2018 under Sections 302, 326, 498-A IPC, registered at Police Station Nathana, District Bathinda was dismissed.

2. Learned counsel for the petitioner submitted that the petitioner, who is an accused had filed an application before learned trial Court under Section 311 Cr.P.C. for recalling of two eye-witnesses i.e. PW-1 Arshdeep Singh and another eye-witness, namely, Vikramjeet Singh. He further submitted that the application was declined by learned trial Court and consequently, the present application has been filed for seeking quashing of the aforesaid order. He submitted that it is a case where the FIR was lodged on the basis of statement made by Simranjeet Kaur, wife of Amrik Singh (Petitioner) that she got married to him on 29.10.2006 and for the last three months, the dispute was going on between her husband and her mother-in-



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law, who alleged her to be character less and did not allow her to go out of the house. The petitioner after quarreling with her quarreled at night poured petrol on her and set her ablaze and said that he will go to jail after killing her and at that point of time both the children, namely, Arshdeep Singh and Vikramjeet Singh were at home and they were crying and also fought with the petitioner. Thereafter, the aforesaid complainant, namely, Simarjit Kaur died.

3. Learned counsel for the petitioner further submitted that the petitioner was in jail and the son, namely, Arshdeep Singh, who was the eye-witness, was examined as prosecution witness and he was also duly cross-examined by the defence in the year 2018 i.e. on 15.11.2018 and so far as the other witness who was sought to be recalled i.e. Vikramjeet Singh, who is also the son of the petitioner was given up by the prosecution and was never examined but inadvertently in the application which was moved under Section 311 Cr.P.C., a prayer was made for recalling of both the eye-witnesses.

4. Learned counsel for the petitioner also submitted that although the case is now at the defence evidence stage and the prosecution evidence has been closed long back ago but the defence wishes to recall the son of the petitioner, namely, Arshdeep Singh (PW-1) for further cross-examination because of new facts which have come into play and therefore, further opportunity be granted to the counsel for the petitioner for cross-examining the aforesaid eye-witness, namely, Arshdeep Singh (PW-1) after recalling him as a prosecution witness.

5. I have heard the learned counsel for the petitioner and also perused the impugned order which has been passed by learned Additional



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Sessions Judge, Bathinda on 04.12.2024. Before proceeding further, the application which was moved by the petitioner before learned trial Court vide Annexure P-3, needs to be considered. The aforesaid application was filed on 28.08.2024 and the witness, who is the son of the petitioner was examined on 15.11.2018 and therefore, the aforesaid application was moved after about 6 years, the contents of the aforesaid application are reproduced as under:-

“Annexure P-3

*IN THE COURT OF HONBLE ADDITIONAL
SESSIONS JUDGE, BATHINDA*

State of Punjab

Vs.

Jaswinder Kaur

Case No. SC/187/2018

FIR NO.89, Dated 22.04.2018

Under Section: 302/326/498-A of IPC

Police Station: Nathana, Bathinda

Application u/s 311 of Cr.P.C. to recall the eye witnesses Vikramjeet Singh son Singh and Arshdeep Singh son of Amrik of Amrik Singh for the examination in person again.

Sir,

The accused wants to submit as under:-

1. That the above noted case is pending in this Hon'ble Court and the same is fixed for today.

2. That the Defence Evidence stage in this case is going on and in this case the prosecution evidence has been closed, but the accused counsel wants to put some other question to the both eye witnesses Vikramjeet Singh and Arshdeep Singh regarding this case.

3. That when the accused counsel talk to accused regarding this case, then accused counsel has come to know some other new facts regarding this case, which are very important to bring before the Hon'ble Court.

4. That the truth of the case only comes out, after the re-examination of the both of eye witnesses namely Vikarmjeet Singh and Arshdeep Singh.



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5. That now it's worthy stage and worthy time, to summon the said witnesses for the cross examination. The accused also undertakes and ready to bear the necessary expenses for the said purpose.

6. That it is demand of justice to issue the direction to said witness to face the cross examination in this case.

It is therefore prayed that the present application may kindly be allowed in the interest of justice and summon to the above mentioned witnesses may kindly be issued to step into the witness box and to face the cross examination stage.

Date: 28.08.2024'

6. A perusal of the aforesaid application would show two basic objectives. Firstly, the application is moved to recall the eye-witness, namely, Arshdeep Singh and Vikramjeet Singh and both of them are sons of the petitioner. However, from the perusal of the order and also as per the learned counsel for the petitioner, one of the eye-witnesses, namely, Vikramjeet Singh, who is sought to be summoned, was never examined and was given up and therefore, it is very clear that even the application which was moved by the petitioner through his counsel was without any application of mind and without looking at the record of the case. Secondly, it has been so averred in the application in Para No.3 that some new facts regarding the case have come up which are important to bring to the notice of the Court for which recalling of the aforesaid witnesses are required. The aforesaid averment in the application is totally vague and there is no material or any averment to show as to why learned trial Court should have exercised the power under Section 311 Cr.P.C. so as to come to a satisfaction that it is essential to the just decision of the case. The aforesaid reasoning has also been given by learned trial Court. The provisions under Section 311 Cr.P.C. are also reproduced as under:-



“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 witness, who is sought to be recalled, namely, Arshdeep Singh was of 10 years of age at the time when he was examined and now he is about 16 years of age. He was examined and cross-examined and proper opportunity was granted to cross-examine regarding which no objection was raised by the defence and it was only after six years when the case is at the fag end of the trial that such an application has been filed and without explaining as to why it is necessary for the just adjudication of the case.

8. It is a settled law that for the purpose of considering and invoking Section 311 Cr.P.C., the Court has to satisfy itself that the need for recalling of a witness goes to the root of the controversy and the Court must be satisfied that it is required for the just adjudication of the case but the same cannot be done on the basis of vague application which has been filed after six years of the examination of the witness which is sought to be recalled. Learned trial Court has also observed that the fairness of the trial has to be seen not only from the point of view of the accused, but also from the point of view of the victim and society and that the same will affect the doctrine of speedy trial.

9. After hearing the learned counsel for the petitioner, this Court is

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of the considered view that the impugned order which has been passed by learned trial Court does not suffer from any illegality or perversity. Consequently, finding no merit in the present petition, the same is hereby dismissed.

16.01.2025*Bhumika***(JASGURPREET SINGH PURI)****JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |