



117 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1636 of 2025 (O&M)
Date of Decision: 28.07.2025

Piare Lal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Abhinav Singla, Advocate for the petitioner.

RAJESH BHARDWAJ, J.

CRM-26545-2025

Allowed as prayed for.

Main case

1. Petitioner has approached this Court by way of present revision petition impugning the order dated 03.06.2025 passed by the learned Additional Sessions Judge, Hoshiarpur, whereby the application filed by the petitioner for recalling PW-6 DSP Jagdish Raj for cross-examination, was dismissed.

2. It has been submitted by learned counsel for the petitioner that the petitioner was prosecuted in FIR No.68 dated 06.03.2019 under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Model Town, District Hoshiarpur. It is submitted that on completion of investigation, the challan was presented and on framing of charges, the trial commenced. He submits that during the trial, prosecution examined DSP-Jagdish Raj as PW-6, however, the petitioner could not cross-examine the same hence, the prosecution evidence were closed. Aggrieved by the same, the petitioner filed an application under Section 311 Cr.P.C. for recalling witness PW-6, namely, DSP Jagdish Raj and the learned trial Court had illegally dismissed the



same. He submits that the petitioner is facing prosecution for a serious offence and non cross-examination would result in a grave injustice to the petitioner. It is submitted that the cross-examination of this witness is essential for the just decision of the case and the petitioner would suffer an irreparable loss and injury, if the same is not allowed to be cross-examined. He submits that the provisions of Section 311 Cr.P.C. are liberal in nature and the Court can invoke the power under Section 311 Cr.P.C. at any stage of the trial. To buttress his arguments, he relies upon the judgment passed in '*Rajendra Prasad Vs. Narcotic Cell (1999) 6 SCC 110*', however, the learned trial Court miserably failed to appreciate the same and thus, derived a wrong conclusion in dismissing the petition filed. He thus, submits that the impugned order being against the law settled, deserves to be set aside and the present petition be allowed by granting opportunity to the petitioner to cross-examine PW-6, namely, Jagdish Raj.

3. This Court has heard learned counsel for the petitioners and perused the records with his able assistance. As deciphered from the facts and circumstances of this case and the arguments advanced, the petitioner before this Court is the accused who is facing prosecution in FIR No.68 dated 06.03.2019. The grievances raised by the petitioner are to the effect that he could not cross-examine prosecution witness, DSP Jagdish Raj, who was produced as PW-6. The quantity of the recovered contraband in present case is 7 kg 10 grams of opium. The learned trial Court has declined the petition filed by the petitioner on the ground that the petitioner, despite opportunity having been granted, failed to cross-examine the witness.



4. For resolving the issue involved in the present case, the provision of Section 311 Cr.P.C. is necessary which read as under:

“311. Power to summon material witnesses, 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.”

Thus, it is evident that the power under Section 311 Cr.P.C. are sacrosanct in nature and can be invoked at any stage of the trial, if the Court finds that examination of witness sought to be summoned is essential for the just decision of the case.

5. From the bare reading of the provision of Section 311 Cr.P.C., it is apparent that the Court has ample power to re-examine or recall any such person whose evidence appears to be essential to the just decision of the case. However, Hon'ble Supreme Court in the case of *Swapan Kumar Chatterjee vs. Central Bureau of Investigation, (2019) 14 SCC 328* held as under:-

“12. 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 wide power under this Section to even recall witnesses for re-examination 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.”

6. In the facts and circumstances of the case, this Court convinced that witness-DSP Jagdish Raj is a material witness. The petitioner is accused, who is facing prosecution in FIR No.18 dated . As the counsel for the petitioner could not cross-examine this witness, the petitioner cannot be victimized for the same. The witness being material in nature, deserves to be recalled.

7. Weighing the facts and circumstances of the case, on the anvil of the law settled, this Court finds that the impugned order dated 03.06.2025 is unsustainable in the eyes of law and the same is hereby *set aside*. The trial Court is directed to provide one effective opportunity to the petitioner for cross-examination of PW-6 Jagdish Raj. Needless to say that if the trial Court finds that the petitioner is misusing the opportunity granted to him and delaying the trial, it would be at liberty to proceed with the trial in accordance with law.

8. Petition is allowed in above-mentioned terms.

28.07.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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