



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

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CRM-M-47000-2025

Date of decision : 29.08.2025

Usha

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Shubham Goyal, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

AMARJOT BHATTI J. (ORAL)

1. Petitioner – Usha has filed present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside impugned order dated 21.07.2025 (Annexure P-5) passed by learned Additional Sessions Judge-cum-Fast Track Court (POCSO), Jalandhar in Sessions case bearing No. SC/579 of 2022 dated 03.10.2022 titled “State of Punjab V/s Jyoti and another”, whereby application filed by petitioner under Section 311 Cr.P.C. for recalling prosecution witnesses i.e. victim PW-6 and Manoj Kumar Sondhi PW-7 was wrongly and illegally dismissed with further prayer that application under Section 311 Cr.P.C. may be allowed and aforesaid witnesses may be recalled for their further cross-examination.

2. Learned counsel for petitioner argued that FIR No. 88 dated 04.08.2022 was registered under Section 376, 506, 120-B of IPC and Section 3, 4, 5, 6 of POCSO Act, 2012 at Police Station Nakodar (Annexure P-1) in which



there are five accused including present petitioner. After investigation, challan was presented and present petitioner is facing trial. During trial, statements of victim as PW-6 and Manoj Kumar Sondhi as PW-7 were recorded, which are Annexures P-2 and P-3 respectively. Their cross-examination was conducted by learned counsel representing petitioner, yet there were several material facts which were not in the knowledge of learned counsel and due to ignorance, he could not cross-examine aforesaid witnesses on the said line. There are serious allegations regarding commission of grave offences which attract heavy punishment. Therefore, petitioner deserves an opportunity to further cross-examine aforesaid witnesses. Detailed application was filed under Section 311 Cr.P.C. (Annexure P-4) which has been declined by the trial Court without any justification by passing impugned order dated 21.07.2025 (Annexure P-5). Impugned order passed by learned trial Court is without any justification. Therefore, same may kindly be set aside and present petition may be allowed to recall aforesaid witnesses for their further cross-examination.

3. Petition is opposed by learned counsel representing State by taking the stand that learned trial Court has passed detailed order dated 21.07.2025 (Annexure P-5). All aspects of case were duly considered and said impugned order does not require any interference.

4. I have considered the arguments and have gone through the record carefully. Present petitioner is one of the accused in FIR No. 88 dated 04.08.2022 (supra) (Annexure P-1). She is facing trial alongwith other co-accused. As per application under Section 311 Cr.P.C., there is a prayer to recall victim PW-6 and Manoj Kumar Sondhi PW-7 for further cross-examination. In the said application, petitioner has given details of facts on which both



witnesses are required to face further cross-examination. While disposing of aforesaid application, learned trial Court has duly considered the facts and circumstances of case as well as provision of Section 311 Cr.P.C. Provisions of Section 311 Cr.P.C. runs as under:-

“Section 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.”

No doubt, this provision gives ample power to the trial Court to examine or recall any witness during the inquiry or trial in the interest of justice. In the case in hand, there is a prayer to recall victim PW-6. She was examined in-chief on 22.03.2024. Her cross-examination was deferred and finally she was cross-examined on 15.07.2024. Similarly, Manoj Kumar Sondhi PW-7 was examined in-chief on 07.08.2024 and he was cross-examined on 29.08.2024. Their statements are annexed as Annexures P-2 and P-3 respectively. It is always appropriate that complete statement of witness is recorded on the same day. However, in the present case regarding both witnesses, after examination-in-chief, their cross-examination was deferred and it was completed on the subsequent date. Therefore, it cannot be said that counsel representing petitioner was not given sufficient time to prepare for cross-examination of witnesses. Infact, learned counsel representing petitioner was given full opportunity to prepare his case for cross-examination of witness and to prepare for his defence. Mere change of counsel will not justify application filed by



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petitioner under Section 311 Cr.P.C. to recall the witnesses who are already examined. Therefore, considering the aforesaid factual position, I do not find any reason to interfere in impugned order dated 21.07.2025 (Annexure P-5) passed by learned trial Court and same is accordingly, upheld and petition filed by petitioner is, accordingly, dismissed.

5. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

29.08.2025*lalit*

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No