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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

# **CNR No. DLHC010303502026**

+ **CRL.M.C. 4892/2026, CRL.M.A. 20525/2026 & CRL.M.A. 24626/2026**

**RAMAN SONI**

.....Petitioner

Through: **Mr. Aditya Singh Deshwal and Mr. Nitish Rangarh, Advs.**

versus

**CENTRAL BUREAU OF INVESTIGATION** .....Respondent

Through: **Mr. Rajesh Kumar, SPP along with Mr. Yash Narain, Ms. Mishika Pandita, Ms. Pragya Nath Adv. Mr. Changez Khan with SI Aakash, EO-11, CBI**

**CORAM:**

**HON'BLE MS. JUSTICE MADHU JAIN**

**ORDER**

% **13.08.2026**

1. This hearing has been done through hybrid mode.
2. The petitioner has challenged the order dated 08.07.2026 (hereinafter referred to as the 'Impugned Order') passed by the learned Special Judge (PC Act), CBI-06, Rouse Avenue Courts, whereby the learned Trial Court entertained and allowed an application preferred by the CBI under Section 311 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC') after the matter had been reserved for pronouncement of judgment.
3. It is the case of the petitioner, a 69-year-old senior citizen, that the order dated 08.07.2026 passed by the learned Special Judge (PC Act), CBI-06, Rouse Avenue Courts, whereby an application under Section 311 CrPC was entertained and allowed after the matter had been reserved for pronouncement



of judgment, is unsustainable in law.

4. The case arises out of a preliminary inquiry registered by the CBI on 10.05.2006 concerning the alleged failure of MCD officials to take action against encroachment upon public land, allegedly resulting in pecuniary advantage to private builders.

5. The preliminary inquiry culminated in registration of RC SIB 2006E0009. The petitioner, Raman Soni, was not initially named in the RC but was subsequently arrayed as an accused in the chargesheet filed by the CBI on 28.11.2008, along with certain MCD officials and private persons.

6. The petitioner submits that he is presently the sole surviving accused/conspirator facing trial, the public servants allegedly forming the core of the conspiracy having been discharged vide orders dated 03.02.2021 and 05.04.2022, while proceedings against the remaining accused stood abated on account of their death during the prolonged pendency of the trial.

7. The learned Trial Court listed the matter for final arguments on 20.04.2026, 28.04.2026 and 04.05.2026. Thereafter, on 04.06.2026, the CBI moved an application under Section 311 CrPC before the learned Special Judge. Instead of rejecting the application at the threshold, the learned Special Judge entertained the same and issued notice to the petitioner. The petitioner filed his reply to the application on 01.07.2026, whereafter the matter was taken up for arguments.

8. Upon hearing the parties, the learned Special Judge allowed the said application orally in open Court on 08.07.2026, which was followed by the passing of the written order later that evening.

9. Relevant extract of the Impugned Order is hereinbelow:

*“Thus, the stage of proceedings during which the*



*power under section 311 CrPC can be invoked is not necessarily the stage of prosecution evidence or trial. In fact, the said provision contemplates that the Court can summon any witness 'at any stage of proceedings' and there is no bar in summoning the witness even at this belated stage, even though, CBI has been lackadaisical in moving the present application and in recording of the testimony of the said witness. The said approach of the prosecuting agency shows casual attitude in leading evidence. Be that as it may, the trial or its outcome cannot be allowed to be hindered because of the said approach and even at this belated stage, the said proceedings can be streamlined in order to illicit true facts. Therefore, in order to clarify the ambiguity in respect of the statement of the said witness i.e. PW-13 D.S. Verma, as prayed by the prosecution, the application is hereby allowed. However, it is made clear that only one opportunity shall be granted to the CBI to examine the said witness."*

10. Learned counsel for the petitioner submits that the application under Section 311 CrPC moved by the CBI is not maintainable at the present stage of the case, as Section 311 CrPC contemplates the exercise of power only during the pendency of an inquiry or trial. The trial in the present case came to an end on 04.05.2026, when the learned Trial Court reserved the matter for pronouncement of judgment. Therefore, once a case is reserved for pronouncement of judgment, the trial in that particular case comes to an end, and the learned Trial Court had effectively become functus officio for the purpose of recording any fresh evidence, with the only judicial act remaining to be performed being the delivery of the verdict. Consequently, there was no scope for filing or entertaining any application under Section 311 CrPC at that



stage.

11. Learned counsel for the petitioner submits that the learned Trial Court completely failed to appreciate that the expression ‘at any stage of any inquiry, trial or other proceeding’ employed in Section 311 CrPC does not extend to a stage where the case has been formally reserved for judgment. Any application under Section 311 CrPC is entertainable only if it is moved during the pendency of the trial. In the present case, the trial came to an end on 04.05.2026, when the learned Trial Court reserved the matter for pronouncement of judgment, which was thereafter listed for 14.05.2026 and 25.05.2026.

12. Learned counsel for the petitioner submits that the learned Trial Court, in the impugned order, committed a grave error in accepting the blanket plea of ‘*inadvertence*’ as a justifiable ground for invoking the extraordinary powers under Section 311 CrPC and in allowing the application of the respondent for recalling the witnesses on the ground of such “inadvertence”. The application moved by the CBI failed to disclose any legally sustainable or bona fide reason explaining why the alleged material facts could not have been brought on record during the examination of PW-13 conducted on 30.07.2025.

13. Learned counsel for the petitioner has placed reliance upon ***Central Bureau of Investigation v. R. Vasudevan & Ors., MANU/DE/3599/2024, Swapan Kumar Chatterjee v. Central Bureau of Investigation, (2019) 14 SCC 328, State of Tripura v. Panna Ahmed, 2026 INSC 584 and Rajkumar Ahirwar v. State of Madhya Pradesh, 2024 SCC OnLine MP 5370***, in support of his contention that the power under Section 311 CrPC could not have been exercised at the belated stage of the proceedings.



14. Per contra, learned Senior Public Prosecutor submits that the legislative intent behind Section 311 CrPC has to be kept in view, particularly since the legislature has consciously used the expression ‘at any stage’. The object of the provision is to ensure that the best available evidence, which is essential for the proper adjudication of the case, comes before the Trial Court.

15. Learned Senior Public Prosecutor (SPP) submits that the legislative intent is further evident from Section 391 CrPC, which permits the Appellate Court, at the appellate stage also, to take additional evidence where it considers such evidence necessary. Thus, Sections 311 and 391 CrPC, when read conjointly, demonstrate that the legislative mandate is to ensure that the best available evidence comes before the Court and that the Court should not remain a mute spectator where material evidence has been left out.

16. Learned Senior Public Prosecutor further submits that the present case is distinguishable from cases where additional documents or fresh material are sought to be introduced. In the present case, the material is already available on record and what is sought is only to elicit certain aspects from the witness which were inadvertently left out during his examination. It is therefore submitted that the exercise of power under Section 311 CrPC would not result in introducing any entirely new material into the case.

17. The learned Special Public Prosecutor places reliance upon the judgments in ***Shubham Yadav v. Central Bureau of Investigation*, 2025:DHC:970; *Ashok Chikara v. Central Bureau of Investigation*, order dated 23.04.2025 in CRL.M.C. 3511/2023; *Nata-sha Singh v. Central Bureau of Investigation*, (2013) 5 SCC 741 and *Rajendra Prasad v. Narcotic Cell*, (1999) 6 SCC 110.**

18. In rebuttal, learned counsel for the petitioner submits that none of the



judgments relied upon by the learned Senior Public Prosecutor deals with a case where the matter had already been reserved for pronouncement of judgment.

19. I have heard learned counsel for the parties and perused the judgments relied upon by them.

20. The principal issue which arises for consideration is whether the learned Trial Court could have exercised jurisdiction under Section 311 CrPC after the matter had been reserved for pronouncement of judgment and, if so, whether the exercise of such power in the facts and circumstances of the present case warrants interference by this Court in exercise of its jurisdiction under Article 226/227 of the Constitution of India read with the relevant provisions of the CrPC.

21. Firstly, the contention of learned counsel for the petitioner is that, once the matter was reserved for pronouncement of judgment, the learned Trial Court became *functus officio* and had no jurisdiction thereafter to entertain an application under Section 311 CrPC. This Court is unable to accept the said proposition in the absolute terms in which it has been urged.

22. Reservation of a matter for judgment undoubtedly marks the conclusion of the ordinary course of trial. It does not, however, render the Court powerless to exercise a jurisdiction expressly conferred upon it by the Code where the Court is satisfied that such exercise is necessary for a just decision of the case. The mere fact that the matter stood reserved for judgment cannot, by itself, operate as an absolute bar to the exercise of power under Section 311 CrPC.

23. Section 311 CrPC reads 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 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.”***

24. The expression ‘at any stage’ occurring in Section 311 CrPC is significant. The provision vests the Court with a wide power to summon or recall a witness where his evidence appears to be essential for a just decision of the case. While the stage at which such power is invoked is a relevant consideration, it cannot, by itself, operate as an absolute bar where the Court is satisfied that the evidence sought to be brought on record is essential for a just decision of the case.

25. It is a well-established principle that the Trial Court is required to remain an active participant in the pursuit of truth, while at the same time ensuring that a proper balance is maintained between the role and responsibility of the prosecution and the rights of the accused. The Court is not expected to remain a passive spectator to the proceedings, but is required to exercise the powers vested in it to ensure a fair and effective adjudication.

26. The aforesaid principle has also been reiterated by the Supreme Court in ***Pooja Pal v. Union of India, (2016) 3 SCC 135***. The relevant paragraph is extracted hereinbelow:

***“54...It was remarked as well that due administration of justice is always viewed as a continuous process, not confined to the determination of a particular case so much so that a court must cease to be a mute spectator and a mere***



*recording machine but become a participant in the trial evincing intelligence and active interest and elicit all relevant materials necessary for reaching the correct conclusion, to find out the truth and administer justice with fairness and impartiality both to the parties and to the community..”*

27. Reference may once again be made to the ***Zahira Habibulla H Sheikh And Anr v. State Of Gujarat And Ors on 12 April, 2004 Equivalent citations: AIR 2004 SUPREME COURT 3114***, where in regard to the role of a Court, it was held:

*“55. The courts, at the expense of repetition we may state, exist for doing justice to the persons who are affected. The trial/first appellate courts cannot get swayed by abstract technicalities and close their eyes to factors which need to be positively probed and noticed. The court is not merely to act as a tape recorder recording evidence, overlooking the object of trial i.e. to get at the truth. It cannot be oblivious to the active role to be played for which there is not only ample scope, but sufficient powers conferred under the Code. It has a greater duty and responsibility i.e. to render justice, in a case where the role of the prosecuting agency itself is put in issue and is said to be hand in glove with the Accused, parading a mock fight and making a mockery of the criminal justice administration itself.”*

28. Secondly, the contention of learned counsel for the petitioner that the application under Section 311 CrPC merely cites ‘inadvertence’ and does not disclose sufficient reasons, cannot be accepted. The jurisdiction under Section 311 CrPC is vested in the Court and its exercise is not dependent exclusively upon the sufficiency or otherwise of the averments contained in the application preferred by a party. The provision itself empowers the Court to



summon or recall a witness even *suo motu*, where the Court is of the opinion that such evidence is essential for a just decision of the case.

29. In ***Rajaram Prasad Yadav v. State of Bihar 2013 (14) SCC 461*** , the Supreme Court listed the basic principles for exercising the powers under Section 311 of the CrPC. Relevant portion of the same is as under:

*“In this context, we also wish to make a reference to certain decisions rendered by this Court on the interpretation of Section 311 CrPC where, this Court highlighted as to the basic principles which are to be borne in mind, while dealing with an application under Section 311 (2013) 14 SCC 461 CrPC.*

*15.1. In the decision in Jamatraj Kewalji Govani v. State of Maharashtra [AIR 1968 SC 178 : 1968 Cri LJ 231], this Court held as under in para 14: (AIR pp. 182-83)*

*"14. It would appear that in our criminal jurisdiction, statutory law confers a power in absolute terms to be exercised at any stage of the trial to summon a witness or examine one present in court or to recall a witness already examined, and makes this the duty and obligation of the court provided the just decision of the case demands it. In other words, where the court exercises the power under the second part, the inquiry cannot be whether the accused has brought anything suddenly or unexpectedly but whether the court is right in thinking that the new evidence is needed by it for a just decision of the case. If the court has acted without the requirements of a just decision, the action is open to criticism but if the court's action is supportable as being in aid of a just decision the action cannot be regarded as exceeding the jurisdiction.*



15.2. In the decision in *Mohanlal Shamji Soni v. Union of India* [1991 Supp (1) SCC 271 : 1991 SCC (Cri) 595], this Court again highlighted the importance of the power to be exercised under Section 311 CrPC as under in para 10: (SCC p. 277)

"10. ... In order to enable the court to find out the truth and render a just decision, the salutary provisions of Section 540 of the Code (Section 311 of the new Code) are enacted whereunder any court by exercising its discretionary authority at any stage of enquiry, trial or other proceeding can summon any person as a witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined who are expected to be able to throw light upon the matter in dispute; because if judgments happen to be rendered on inchoate, inconclusive and speculative presentation of facts, the ends of justice would be defeated."

15.3. In the decision in *Raj Deo Sharma (2) v. State of Bihar* [(1999) 7 SCC 604 : 1999 SCC (Cri) 1324], the proposition has been reiterated as under in para 9:

(SCC p. 613) "9. We may observe that the power of the court as envisaged in Section 311 of the Code of Criminal Procedure has not been curtailed by this Court. Neither in the decision of the five-Judge Bench in *A.R. Antulay case* [*Abdul Rehman Antulay v. R.S. Nayak*, (1992) 1 SCC 225 : 1992 SCC (Cri) 93] nor in *Kartar Singh case* [*Kartar Singh v. State of Punjab*, (1994) 3 SCC 569 : 1994 SCC (Cri) 899] such power has been restricted for achieving speedy trial. In other words, even if the prosecution evidence is closed in compliance with the directions



*contained in the main judgment it is still open to the prosecution to invoke the powers of the court under Section 311 of the Code. We make it clear that if evidence of any witness appears to the court to be essential to the just decision of the case it is the duty of the court to summon and examine or recall and re-examine any such person."*

*15.4. In UT of Dadra and Nagar Haveli v. Fatehsinh Mohansinh Chauhan [(2006) 7 SCC 529 : (2006) 3 SCC (Cri) 300], the decision has been further elucidated as under in para 15: (SCC p. 538)*

*"15. A conspectus of authorities referred to above would show that the principle is well settled that the exercise of power under Section 311 CrPC should be resorted to only with the object of finding out the truth or obtaining proper proof of such facts which lead to a just and correct decision of the case, this being the primary duty of a criminal court. Calling a witness or re-examining a witness already examined for the purpose of finding out the truth in order to enable the court to arrive at a just decision of the case cannot be dubbed as „filling in a lacuna in the prosecution case“ unless the facts and circumstances of the case make it apparent that the exercise of power by the court would result in causing serious prejudice to the accused resulting in miscarriage of justice."*

*15.5. In Iddar v. Aabida [(2007) 11 SCC 211 : (2008) 1 SCC (Cri) 22 : AIR 2007 SC 3029], the object underlying under Section 311 CrPC, has been stated as under in para 9: (SCC pp. 213-14)*

*"9. ... „27. The object underlying Section 311 of the Code is that there may not be failure of justice on account of mistake of either party in bringing the 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 section is not limited only for the benefit of the accused, and it will not be an improper exercise of the powers of the court to summon a witness under the section merely because the evidence supports the case for the prosecution and not that of the accused. The section is a general section which applies to all proceedings, enquiries and trials under the Code and empowers the Magistrate to issue summons to any witness at any stage of such proceedings, trial or enquiry. In Section 311 the significant expression that occurs is „at any stage of any inquiry or trial or other proceeding under this Code“. It is, however, to be borne in mind that whereas the section confers a very wide power on the court on summoning witnesses, the discretion conferred is to be exercised judiciously, as the wider the power the greater is the necessity for application of judicial mind.” [Ed.: As observed in *Zahira Habibullah Sheikh (5) v. State of Gujarat*, (2006) 3 SCC 374 at p. 392, para 27:*

*"15. The scope and object of the provision is to enable the court to determine the truth and to render a just decision after discovering all relevant facts and obtaining proper proof of such facts, to arrive at a just decision of the case. Power must be exercised judiciously and not capriciously or arbitrarily, as any improper or capricious exercise of such power may lead to undesirable results. An application under Section 311 CrPC must not be allowed only to fill up a lacuna in the case of the prosecution, or of the defence, or to the disadvantage of the accused, or to cause serious prejudice to the defence of the accused, or to give an unfair advantage to the opposite party. Further, the additional evidence must not be received as a*



*disguise for retrial, or to change the nature of the case against either of the parties. Such a power must be exercised, provided that the evidence that is likely to be tendered by a witness, is germane to the issue involved. An opportunity of rebuttal however, must be given to the other party. The power conferred under Section 311 CrPC must therefore, be invoked by the court only in order to meet the ends of justice, for strong and valid reasons, and the same must be exercised with great caution and circumspection. The very use of words such as „any court“, „at any stage“, or „or any enquiry, trial or other proceedings“, „any person“ and „any such person“ clearly spells out that the provisions of this section have been expressed in the widest possible terms, and do not limit the discretion of the court in any way. There is thus no escape if the fresh evidence to be obtained is essential to the just decision of the case. The determinative factor should therefore be, whether the summoning/recalling of the said witness is in fact, essential to the just decision of the case.”*

30. At this stage, this Court does not deem it necessary to deal with each of the judgments relied upon by the parties separately. The legal position with regard to the scope and ambit of Section 311 CrPC is well settled. The crux of the aforesaid judicial precedents is that Section 311 confers wide discretionary powers upon the Court, with the primary object of ensuring that no material evidence is excluded from consideration where its presence is essential for a just decision of the case.

31. The Supreme Court has consistently held that procedural considerations cannot come in the way of the Court exercising its powers under Section 311 CrPC to summon or recall a witness where such evidence



is necessary for arriving at the truth and rendering a just decision. The guiding consideration remains whether the evidence sought to be brought on record is germane to the issues involved and essential for a just adjudication, while ensuring that the exercise of such power does not cause serious prejudice to either party.

32. The object of a criminal trial is to enable the Court to arrive at the truth on the basis of the best available evidence. An omission at an earlier stage, therefore, cannot by itself constitute a bar to the exercise of power under Section 311 CrPC, where the Court is satisfied that the evidence sought to be brought on record is necessary for a just decision of the case.

33. The contention of learned counsel for the petitioner that the application under Section 311 CrPC merely cites 'inadvertence' and does not disclose sufficient reasons, cannot be accepted. The jurisdiction under Section 311 CrPC is vested in the Court and its exercise is not dependent exclusively upon the sufficiency or otherwise of the averments contained in the application preferred by a party. The provision itself empowers the Court to summon or recall a witness even *suo motu*, where the Court is of the opinion that such evidence is essential for a just decision of the case.

34. The judgments relied upon by learned counsel for the petitioner do not advance his case. The principles laid down therein are well settled; however, the applicability of those principles would necessarily depend upon the facts and circumstances in which the power under Section 311 CrPC was sought to be exercised. The factual matrix of the present case is materially distinct.

35. In view of the aforesaid discussion, this Court finds no merit in the challenge to the Impugned Order. The exercise of power under Section 311 CrPC by the learned Trial Court was justified.



36. Accordingly, the present petition is dismissed. Pending applications, if any, also stand disposed of.
37. A copy of this order be communicated to the learned Trial Court for necessary information and compliance.
38. The order be uploaded on the website *forthwith*.

**MADHU JAIN, J**

**AUGUST 13, 2026/prg/rm**