

IN THE COURT OF SRI PAWAN KUMAR, D.A.S.J.-V, JAMUI
S.T No. 56/2023 (I.A.-1/2025)

Date of order of Proceeding	Order with signature of the court	Office action taken with
<u>19.02.2026</u>	Present- Sri Sanjeev Kr. Singh, Ld. APP for State. Sri Sitaram Singh, Ld. Counsel for petitioners. Sri Rajesh Kr. Singh, Ld. Counsel for Informant. All the accused persons are present in person today. Informant is also present in person. Today, a petition dated 27.11.2025 filed under Section 311 Cr.P.C. / Section 349 B.N.S.S. has been pressed on behalf of the accused persons seeking recall of PW7 (Dr. Kumod Ranjan) and PW8 (Investigating Officer) for further cross-examination. The prosecution has already filed a rejoinder on 15.12.2025 opposing the said petition. Learned counsel for the defence submits that as per the case summary of the deceased, it has been mentioned that the deceased was a smack smoker, and therefore clarification is required from the Investigating Officer regarding the investigation conducted in respect of the alleged consumption of smack. It is further submitted that PW7 is required to be recalled to put a specific question regarding the possibility of asphyxia occurring after a lapse of four days or more. It is contended that such further examination is essential for the just decision of the case. Per contra, learned Addl. P.P., assisted by learned counsel for the informant, has vehemently opposed the prayer. It is submitted that both PW7 and PW8 were examined and thoroughly cross-examined on all material aspects, including the issues now sought to be raised through the present petition. It is further argued that the petition has been filed only to delay the proceedings, which are now at the concluding stage, and that the averments made therein are not supported by any material available on record. Heard the learned counsel for the parties and perused the record. From the record, it appears that PW7 and PW8 were examined in January, 2024. The defence was granted full and adequate opportunity to cross-examine both witnesses. The depositions of both the witnesses reveal that detailed cross-examination was conducted on medical opinion, cause of death, and the manner of investigation carried out by the I.O. No limitation or restriction was imposed upon the defence at that stage. It further appears that questions touching upon the alleged consumption of smack and medical aspects were also put during earlier cross-examination.	

IN THE COURT OF SRI PAWAN KUMAR, D.A.S.J.-V, JAMUI
S.T No. 56/2023 (I.A.-1/2025)

Continued...
19.02.2026

The power under Section 311 Cr.P.C. / Section 349 B.N.S.S. is wide and is intended to ensure that justice is not defeated by omission of material evidence. However, such power is discretionary and must be exercised judiciously. It cannot be invoked to permit a party to re-open cross-examination merely because a different line of questioning is subsequently conceived. The provision is not meant to enable a fishing or roving enquiry, nor to protract the trial.

In the present case, no new circumstance or material has been shown to have arisen after the examination of PW7 and PW8. The matters now sought to be clarified were within the knowledge of the defence at the time of their earlier cross-examination. The grounds mentioned in the petition do not demonstrate that recall of the said witnesses is indispensable for the just decision of the case.

It is also pertinent that the matter is presently fixed for recording the statement of the accused under Section 313 Cr.P.C., and the trial has substantially progressed. Entertaining the present petition at this stage would unnecessarily delay the proceedings without any compelling justification.

In view of the foregoing discussion, this Court is of the considered opinion that the defence has failed to establish that recall of PW7 and PW8 is essential for the just decision of the case. The petition appears to be devoid of merit.

Accordingly, the petition dated 27.11.2025 filed under Section 311 Cr.P.C. / Section 349 B.N.S.S. is hereby rejected.

The accused persons are hereby directed to remain physically present before this Court on the next date fixed for hearing for the purpose of recording their statements under Section 313 Cr.P.C., without fail.

Put up on 12.03.2026 for statement u/s 313 Cr.P.C.

Dictated

D.A.S.J.-V, Jamui