

Serial Number of Order	Date of Order	Order with initials of the Magistrate	Office notes as to action taken on order (if any) and date
1	2	3	4
	09.12.2025	During the course of arguments, it has come to the notice of this Court that, as per order dated 12.07.2023, a petition under Section 311 CrPC was filed by the complainant. The order-sheet dated 12.07.2023 shows that the matter was posted for 13.07.2023 for filing of a rejoinder on behalf of the defence. However, it is noticed that no order dated 13.07.2023 appears on the order-sheet. It appears that the said order could not be brought on record inadvertently. From the margin notes on the order-sheet, it is evident that learned counsel for the defence had received a cost of Rs. 500/- on behalf of the accused persons. It is pertinent to note that while allowing the petition filed under Section 311 CrPC, this Court had directed the complainant to pay a cost of Rs. 500/- to the defence for seeking an adjournment, and the petition under Section 311 CrPC was allowed subject to that condition. It appears that on 13.07.2023 itself, the complainant tendered the cost of Rs. 500/-, and on the same date, Gupteshwar Pd. Singh was examined as PW-5 (though the witness number was inadvertently not mentioned on the deposition sheet) on behalf of the complainant. It is further seen that, during examination, PW-5 exhibited six documents on behalf of the complainant. Exhibit P-1 is the signature of Shivashankar Sharma on the partnership deed dated 15.02.2003; Exhibit P-2 is the signature of accused Munun Sharma on the said partnership deed; Exhibit P-3 is the signature of Suraj Kumar Soni, the scribe of the deed; Exhibit P-4 is the cheque book; Exhibit P-5 is the signature dated 03.05.2007 of Raj Kishore Vishwakarma, learned counsel, on the legal notice sent on behalf of the complainant to the accused persons; and Exhibit P-6 is the signature of the complainant, Binita Bharti, as appearing on the complaint petition. It is further noticed that, on the basis of an application dated	Scan for 9-12-25

22.05.2024 filed on behalf of the accused persons, the following documents were marked as exhibits on 09.04.2025: the certified copy of Complaint Case No. 548 of 2007 was marked Exhibit D-1; the order dated 29.02.2008, whereby the substance of accusation under Section 138 of the N.I. Act was explained to accused Binita Bharti, was marked Exhibit D-2; the photocopy of cheque bearing No. 068544 dated 03.04.2007 was marked Exhibit D-3; and the bank return memo relating to dishonour of the said cheque was marked Exhibit D-4.

Since none of these details are reflected in the order-sheet, this Court deems it appropriate to record all these facts today before proceeding further.

It has also come to the notice of this Court that, after allowing the complainant's petition under Section 311 CrPC, PW-5 was examined, the aforesaid documents were exhibited and taken on record, whereafter the prosecution evidence was closed. The defence was then called upon to adduce its evidence; however, the defence submitted that it did not wish to produce any evidence, and accordingly, defence evidence was closed. In the interregnum, however, the statements of the accused persons under Section 313 CrPC—which ought to have been recorded in view of the new facts brought on record—could not be recorded inadvertently.

Accordingly, this Court considers it necessary, before proceeding further, to record the statements of the accused persons under Section 313 CrPC.

Meanwhile, it has been submitted by the learned counsel for the complainant that three more documents, already submitted in Court along with the list of documents, are required to be taken on record. It has been submitted that these documents, being public documents, need not be formally proved and may be taken on record in the interest of justice. Learned counsel for the defence, who is present, has submitted that he has no objection if the documents are taken on record and exhibited.

Considering the aforesaid submissions, this Court deems it fit, in the interest of justice, to take the said documents on record. On the next date, the prosecution shall produce a witness to formally tender the documents so that the same may be exhibited.

It is further pertinent to record that, although certified copies of public documents tendered in evidence need not be formally proved, someone must nonetheless tender them in Court before they can be exhibited. However, it is noticed that the documents taken on record on 09.04.2025 on behalf of the defence were not tendered by any defence witness. The earlier marking of Exhibits D-1 to D-4 appears to have been made without the documents being tendered by any defence witness. A public document does not require formal proof but must still be tendered through a witness. The earlier marking is therefore irregular. In order to regularize the record, the defence is permitted to tender these documents through an appropriate witness. This correction pertains only to procedural regularity of evidence and does not amount to a review of any judgment or final order under Section 362 CrPC.

List the case on 15.12.2025 for (i) exhibition of documents by the prosecution, (ii) thereafter, recording the statements of the accused persons under Section 313 CrPC, and (iii) thereafter, tendering of the earlier-marked documents by a defence witness. All these acts may be completed on the same date. Thereafter, the matter shall be fixed for arguments.

Let the order-sheet be shown to both parties


JMFC

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प्रतिवादी के द्वारा
दस्तावेजों को
तैयार करने के लिए
नियत है।
न्यायाधीश
प्रवीण कुमार