

State Vs. Shaijan & Ors. (accused/applicant Kamruddin)

CNR No.: DLCT01-000999-2022

SC No. 21/2022

FIR No. 152/18

Under Section 308/323/427/34/174A IPC

PS : I.P. Estate

13.05.2026

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Bharat Bhushan Sharma, Ld. Counsel for the
accused, namely, Kamruddin.

The present application has been moved under Section 311 Cr.P.C./Section 348 BNSS on behalf of the accused, namely, Kamruddin, seeking recalling of PW-6 Retd. SI Satender Kumar for his further cross-examination on behalf of the said accused.

It is submitted by Ld. Counsel for the applicant that the charge of offence under Section 174A IPC is particularly directed against the applicant. However, as per the Ld. Counsel for the applicant, due to inadvertence, certain material questions could not be posed to PW-6 Retd. SI Satender Kumar during his cross-examination on 03.01.2025. Ld. Counsel has further submitted that further cross-examination of the said witness is required particularly for the offence under Section 174A IPC to test the testimony of the said witness to the said effect. As per Ld. Counsel, PW-6 Retd. SI Satender Kumar is a material witness and his testimony has material bearing in determining the present case. Lastly, as per the Ld. Counsel, the applicant/accused would suffer irreparable loss if the application is not allowed and PW-6 Retd. SI Satender Kumar is not recalled for his cross-examination. Accordingly, Ld. Counsel has prayed

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that the present application may be allowed in the interest of justice.

Ld. Addl. PP for the State has submitted that he has no objection, if the present application is allowed, however, subject to the availability of the witness.

Arguments heard. Record perused.

Before proceeding further, this Court observes that the underlying objective of the provisions under Section 311 Cr.P.C. (*pari materia* with Section 348 BNSS) is to ensure that justice alone prevails and 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*’.” In fact, the superior Courts have persistently avowed that in the interest of justice, an application under Section 311 Cr.P.C. can be filed and entertained at any stage of the proceedings/ trial even after conclusion of the arguments, besides it is equally settled that the wide discretionary power under Section 311 Cr.P.C./Section 348 BNSS can be exercised at any stage to reach a fair and just decision in the case.

Accordingly, in light of the aforesaid observations, submissions made by Ld. Counsel as well as considering that Ld. Addl. PP for the State has not objected to the present applicant, this Court deems it prudent to allow the present application under Section 311 Cr.P.C./Section 348 BNSS, for recalling of the witness/PW-6 Retd. SI Satender Kumar.

Consequently, the present application is hereby **allowed** and PW-6 Retd. SI Satender Kumar is permitted to be recalled and further cross-examined on behalf of the applicant/

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accused, namely, Kamruddin, subject to his availability on the next occasion and subject to the payment of diet money to the said witness by/on behalf of the applicant.

List for PE on the date already fixed, *i.e.*, on **04.06.2026**.

PW-6 Retd. SI Satender Kumar be summoned for next date of hearing.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
13.05.2026