

CNR No. DLST01-002513-2013
SC No. 233 of 2019
State Vs Gagan & Anr.
FIR No.555/2018
PS Neb Sarai

31.01.2025

Present: Sh. L. D. Singh, Ld. Additional PP for the State.
Both accused in person on bail.
Sh. Vijay Singh, Ld. Counsel for accused Gagan.
Sh. Shubham Mishra, Ld. Counsel for accused
Priyanshu.
Parents of deceased in person with Ld. Counsel.
PW ACP Mukesh Kumar Jain in person

Matter is listed for further prosecution evidence.

PW15 ACP Mukesh Kumar Jain has been examined-
in-chief by State. His cross-examination on behalf of both the
accused persons is 'Nil. Opportunity given'. He is discharged.

An application under section 311 Cr.P.C on behalf of
the State for recalling of witnesses i.e. **PW1 Manish @
Mahender, PW2 Jitender, PW3 Nitesh Kumar and PW4 Rinkesh**
is also under consideration. Ld. Counsel for accused Gagan
submits that he does not wish to file any formal reply and would
straight way advance the arguments. Ld. Proxy counsel for
accused Priyanshu submits that main counsel is in High Court of
Delhi and as per his instructions, he has no objection if the
application is allowed.

Ld. Additional Prosecutor for the State submits that
it appears that inadvertently his predecessor did not confront the

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eye witnesses with the video footage on record and in the light of the fact that the crucial eye witnesses of the prosecution have turned hostile, they are required to be confronted with the CCTV/video footage showing their presence at the spot. On the contrary, Ld. Counsel for accused Gagan submits that the faces of the alleged eye witnesses in the CCTV/video footage are not visible and since they have already disputed their presence at the time of alleged incident, their re-examination will not espouse the cause of the prosecution.

In view of the aforesaid submissions on behalf of the State, the recalling and re-examination of the aforementioned witnesses appear to be essential to the just decision of the case, therefore, application under section 311 Cr.P.C stands allowed subject to availability of the witnesses.

Let PW1 Manish @ Mahender, PW2 Jitender, PW3 Nitesh Kumar and PW4 Rinkesh be summoned through the SHO concerned for next date of hearing for their re-examination.

MHC(M) with case property, if any, be also summoned for next date of hearing.

IO be also notified to appear in person on the next date of hearing.

List now for further prosecution evidence on 20.02.2025.

**(Navjeet Budhiraja)
ASJ-02 (South)/ Saket Courts
New Delhi/31.01.2025**