

GJPM010004402024



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**Sessions Case No. 33/2024.**  
**Order below recall application at Exhibit - 11.**

**The State of Gujarat.**

**vs.**

**Dipaksinh @ Bhuro Chhatrasinh Gohil**

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1. The accused herein has preferred the present application U/sec. 348 of B.N.S.S., for recalling of witness.
2. It is the say of the accused herein that, the witness P-5, Rajendrasinh Vijaysinh Solanki, was examined by the prosecution on 19.09.2024, however as the Ld. Advocate for the accused was out of station and could not remain present before the Court on time, the Hon'ble Court had closed the right of cross-examining the witness, P-5. The Ld. Advocate for the defence has submitted that the cross-examination of the witness is necessary to bring out certain facts on record of the Court and it would affect the ultimate outcome of the case, hence it is urged by the Ld. Advocate for the accused to re-open the right of cross-examination and to recall the said witness.

3. The Ld. P.P., in his kosher fairness, has urged to pass appropriate order in the interest of justice.
4. Heard the Ld. Advocates appearing on behalf of the respective parties and also considering the facts of the application. It is also to be noted that the cross-examination of the witness is of utmost necessity to establish defence on the part of the accused and inspite of that the Ld. Advocate for the accused failed to remain present before the Court for cross-examining the witness, due to which the right to cross-examination came to be closed by the Court. It is true that the object of Section-348 of B.N.S.S. (Sec.311 of Cr.P.C.) is to prevent the failure of justice on account of the mistake of either parties to bring on record valuable evidence or leaving ambiguity in statements of witnesses, hence the application recalling material witnesses for further cross-examination should be liberally considered.
5. Under the circumstances, the present application deserves consideration, subject to imposition of costs and in view of the same, following order is passed in the wider interest of justice :

### O R D E R

1. The present application preferred U/sec.348 of B.N.S.S. is allowed.

2. The right of defence to cross-examine the witness P-5, Rajendrasinh Vijaysinh Solanki, stays re-opened, subject to payment of costs of Rs.3,000/- (Rupees Three Thousand Only) in the District Legal Services Authority, Godhra.
3. On payment of costs, summons be issued to recall the witness P-5, Rajendrasinh Vijaysinh Solanki, returnable on 17.10.2024.

Pronounced in the open Court today,  
on this 4<sup>th</sup> day of October, 2024.

Dt.04.10.2024  
G O D H R A.

**(Chandrapalsingh K. Chauhan)**  
Sessions Judge,  
Panchmahals, at Godhra.  
[UID Code No. GJ-00513]

Shyam Shankaran