

IN THE COURT OF NAINA JINDAL,
JUDICIAL MAGISTRATE FIRST CLASS, HISAR

Application for additional evidence

Present : Sh. Sandeep Lamba, Advocate for the applicant/complainant.
Accused on bail with Sh. Rahul Singh Advocate.

ORDER:

This order of mine shall dispose off an application moved by the applicant/complainant under Section 311 of Cr.P.C. for additional evidence.

2. In the application for additional evidence, it has been submitted that the complainant wants to produce certain relevant documents i.e. bank account statement of his firm. The complainant states that since the amount of Rs. 2,00,000 was given to the accused by way of bank transfer, his application be allowed in interest of justice.

3. Per contra, application has been resisted by the defence on the ground that the application is false, frivolous and vexatious. It is argued that the application is a delaying tactic and the onus is on the complainant to file all the documents in time and is now attempting to fill in lacunae. Therefore, controverting all other submissions of application, a prayer of the same is made.

4. Before proceeding further, it is necessary to have a perusal of Section 348 BNSS, which state as under:

“Section 348:- Power to summon material witness, or examine person present.

Any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined; and the Court shall summon and examine or re-call and re-examine any such person if his

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evidence appears to it to be essential to the just decision of the case”.

:- In Natasha Singh Vs. CBI (State), Criminal Appeal No. 709 of 2013: 2013 (3) RCR (Criminal) 368: 2013(4) the apex Court has held:

“ 14. The scope and object of the provisions is to enable the Court to determine the truth and to render a just decision after discovering all relevant facts and obtaining proper proof of such facts, to arrive at a just decision of the case. Power must be exercised judiciously and not capriciously or arbitrarily as any results. An application under Section 311 Criminal Procedure Code must not be allowed only to fill up a lacuna in the case of prosecution or of the defence, or to the disadvantage of the accused, or of the prosecution or of the defence, or to the disadvantage of the accused or to cause serious prejudice to the defence of the accused, or to give an unfair advantage to the opposite party. Further the additional evidence must not be received as a disguise for retrial or to change the nature of the case against either of the parties. Such a power must be exercised provided that the evidence that is likely to be tendered by a witness, is germane to the issue involved. An opportunity of retutal, however must be given to the other party.”

5. I have heard both learned counsel for complainant as well as learned counsel for accused. Arguments heard and the record has been carefully perused.

(i). The document sought be produced is the bank account statement of the complainant firm by which the amount of Rs. 2,00,000/- has been given to the accused. Perusal of the file showcases that the complaint and affidavit in evidence discloses that the said amount was given by way of a bank transfer to the accused. Thus, the application cannot be dismissed as a tactic of fill lacuna and the said document is clearly necessary to discover the truth and render a just decision as the bank account statement will showcase the transactions between the parties.

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(ii) Nonetheless, the applicant/complainant failed to produce the said document during preliminary evidence and there is no reasoning adduced for the same. This court is of considered opinion that the document should have been produced at the time of preliminary evidence. However, by dismissing the application, greater harm shall be caused considering the significance of the document. Further no prejudice shall be caused to the accused as his right to cross-examine the complainant shall stand intact.

Consequently, in view of the reasons mentioned above, the application is hereby allowed, subject to cost of Rs. 1000/- to be deposited in DLSA, Hisar by the complainant. The applicant/complainant is at liberty to produce the bank account statement of the complainant firm for the relevant period.

Note: Nothing hereinabove, mentioned shall be construed to be expression of my opinion on the merits of the case.

Date of Order : 19.8.2026

Neetika Nagpal, Stenographer-II

(Naina Jindal)

UIDNo.HR00764

*Judicial Magistrate 1st Class,
(Exclusive Court of N.I. Act), Hisar*

Note: This Order contains Three Pages and each page has been checked and signed by me.

(Naina Jindal)

UIDNo.HR00764

*Judicial Magistrate 1st Class,
(Exclusive Court of N.I. Act), Hisar*

(Naina Jindal)

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Present : Sh. Sandeep Lamba, Advocate for the
applicant/complainant.

Accused on bail with Sh. Rahul Singh, Advocate.

Arguments heard on the application moved by the
applicant/complainant under Section 311/348 of BNSS for additional
evidence.

Vide separate order of even date, aforesaid application
moved by the complainant **has been allowed, subject to cost of Rs.
1000/- to be deposited in DLSA Hisar by the complainant.**The
applicant/complainant is at liberty to produce the bank account
statement of the complainant firm for the relevant period. Now, to come
up on 2.9.2026 for leading evidence allowed as per application.

Date of Order : 19.8.2026

Neetika Nagpal, Stenographer-II

(Naina Jindal)

UIDNo.HR00764

*Judicial Magistrate 1st Class,
(Exclusive Court of N.I. Act), Hisar*

(Naina Jindal)

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