

**IN THE COURT OF SH. PAWAN KUMAR, LD.
ASJ/SPL/FTC/PHC/NEW DELHI**

**REVISION PETITION No. 88 of 2025
CNR NO. DLND01-000857-2025**

IN THE MATTER OF:

SHRI KUNJ AGENCY
ITS MANAGER / DIRECTOR MOHAN LAL RATHORE,
SON OF LATE M. BADRI PRASAD RATHORE
ADDRESS : AKALTARA ROAD JANJGIR,
THANA & TEHSIL JANJGIR,
DISTT. JANGJGIR, CHAMPA, CHHATISGARH,
PIN CODE : 495668

ALSO AT:

CORRESPONDENCE ADDRESS
B-1, NEW SEEMA PURI,
DELHI. 110095

.....Revisionist

Versus

1. State (NCT of Delhi)
2. SWAL CORPORATION LTD.
BRANCH OFFICE – 26/28, INDRA PLACE,
BLOCK – H, CONNAUGHT PLACE,
NEW DELHI
HEAD OFFICE : UNIPHOS HOUSE,
MADHU PARK, 11th ROAD, KHAR (WEST),
MUMBAI - 400052

.....Respondents

Instituted on : 12.02.2025
Reserved on : 01.03.2025
Pronounced on : 01.03.2025

JUDGMENT

1. By way of instant revision, revisionist takes exception to the order dated 13.11.2024, whereby the Ld. Trial Court has allowed the application of the respondent under Section 311 Cr.P.C. by Ms. Bharti Beniwal, Ld. JMFC (NI Act), Digital Court – 01, New Delhi District, Patiala House Courts in case bearing CC No. 3325/2021 titled as ‘*Swal Corporation Ltd. v. Ms. Shri Kunj Agency*’.

2. Brief facts, as noted by Ld. Trial Court in the impugned order, are not in dispute and the same are being reproduced for the sake of convenience:

“By way of the present application, the complainant seeks liberty of the court to file a copy of digital record of the ledger maintained by the complainant company from 01.04.2017 to 31.03.2023 and copy of the invoices alongwith the transport receipt. It is submitted that the complainant witness was cross examined on 11.04.2023 and on account of ongoing closing financial procedures of the company, the certain relevant documents were not available at that time. That complainant has now procured all the relevant documents necessary to establish the veracity of its claim and allegations and it is imperative to permit the complainant to produce the documents in order to support the facts of the case. That the documents are relevant to show the legal liability of the accused towards the complainant company and in case the application is not allowed, great injustice would be caused to the complainant.”

3. Ld Magistrate, vide impugned order, allowed the application u/s 311 Cr.P.C moved by the respondent no.2/complainant. The respondent moved the application under section 311 Cr.P.C. for permission to allow him to place on record certain evidence in the form of documents. The Ld. Trial Court allowed the application with the following observation:

“It is settled law that the exercise of power under Section 311 CrPC should be resorted to only with the object of finding out the truth or obtaining proper proof of such facts, which will lead to a just and correct decision of the case. In the present case, the entire case of the complainant is based upon the statement of accounts/ledger and in my considered opinion, the documents are required for just decision of the case. The application was filed on the date when the Statement of accused under Section 313 CrPC was recorded and the accused has not led his evidence till date. No such delay or injustice would be caused to the accused side. With these observations, the application under Section 311 CrPC filed by the complainant stands allowed. Accordingly, applications disposed of.”

4. Revisionist is aggrieved with the said order and has assailed the same on various ground which can be summarized as under:-

(i) That the impugned order passed by Ld. Trial Court is contrary to the facts and circumstances and material available on record.

(ii) That the complainant evidence has already been closed after examination of the witnesses on 11.04.2023 and the revisionist /accused examined himself under Section 315 Cr.P.C. and he was cross examined on 28.07.2023. The respondent deliberately filed the application under section 311 Cr.P.C. after delay of two years.

(iii) That the respondent no. 2 has filed the application under Section 311 Cr.P.C. to prolong the trial in order to harass and humiliate the accused.

(iv) That the documents sought to be produced in the evidence are not legible and the clear copy of the documents was not

provided to the revisionist.

(v) The Ld. Trial Court has passed the impugned order without applying her judicial mind and against the principal of natural justice.

5. Arguments heard as advanced by the revisionist and record perused.

6. In the matter of **Taron Mohan v. State & Anr 2021 SCC OnLine Del 312** Hon'ble Delhi High Court has observed as under:-

“9. The scope of interference in a revision petition is extremely narrow. It is well settled that Section 397 CrPC gives the High Courts or the Sessions Courts jurisdiction to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of any inferior court. It is also well settled that while considering the legality, propriety or correctness of a finding or a conclusion, normally the revising court does not dwell at length upon the facts and evidence of the case. A court in revision considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its own conclusion on an elaborate consideration of evidence.”

7. Further, Hon'ble Apex Court in ***Sanjaysinh Ramrao Chavan vs. Dattatray Gulabrao Phalke and others, 2015 (3) SCC 123*** observed as under :

“14.....Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence.

The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction.”

14. In the above case also conviction of the accused was recorded, the High Court set aside the order of conviction by substituting its own view. This Court set aside the High Court’s order holding that the High Court exceeded its jurisdiction in substituting its views and that too without any legal basis.”

8. Therefore, in view of the settled position of law, this court in its revisional jurisdiction, is not expected to substitute its own view with that of Ld. Trial Court until and unless the order passed by Ld. Trial Court suffers from jurisdictional error or patent infirmity/illegality.

9. The Section 311 Cr.p.C. consists of two parts i.e. (i) giving discretion to the court to examine the witness at any stage and (ii) it mandates the court to examine a witness if his evidence appears to be essential for the just decision of the case. Bare reading of the provision reveals that it is of very wide amplitude. The court has broad discretion to decide whether to summon a witness under this provision but it should be exercised judicially with the application of mind. The primary objective of the exercise of this power is to ensure a just decision by bringing all material evidence on record. The courts are expected to exercise its power with caution and circumspection by invoking it when it is necessary to prevent abuse. While exercising this discretion the court must assess whether the proposed additional evidence is material

and relevant to arrive at just decision of the case. The court should take care of the fact that exercise of this power does not cause prejudice to either of the parties.

10. The impugned order was passed in the complaint under Section 138 Negotiable Instrument Act filed by the respondent no. 2 against the revisionist. The court may exercise its discretion under Section 311 Cr.P.C. at any stage of the case. In the impugned order, it is categorically observed that the documents sought to be brought on record are required for the just decision of the case. The documents to be produced in evidence are necessary to establish the legally enforceable liability of the revisionist/accused. I agree with the observation made by Ld. Trial Court that no prejudice is going to be caused to the revisionist/accused.

11. The Ld. Trial court has passed well reasoned order while allowing the application u/s 311 Cr.P.C, therefore, this court cannot and rather ought not substitute its own view with that of Ld. Magistrate (while exercising its revisional jurisdiction) and thereby arriving at a different conclusion.

12. One of the ground for filing the revision petition was that the legible and clear copy of the documents sought to be produced have not been supplied to the revisionist. It is incumbent upon the Trial Court that legible copy be supplied to the accused/revisionist for the effective cross examination of the witness. With these observations, it is held that there is no patent illegality, impropriety or jurisdictional error in the impugned

order. Accordingly, the revision petition stands dismissed with the direction to the Ld. Trial Court that legible and clear copy of the said documents be provided to the revisionist/accused.

13. Copy of this judgment be sent to Ld Trial Court.

14. Revision file be consigned to Record Room after due compliance.

Announced in Open Court
On 01st March, 2025

(Pawan Kumar)
ASJ /Spl. FTC / PHC / NDD
New Delhi / 01.03.2025