



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CrMMO No. 269 of 2024
Date of Decision: 4.5.2026**

Roopa Devi

.....Petitioner

Versus

Sh. Ram Kumar Verma and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? Yes

For the Petitioner: Mr. Vipin Pandit, Advocate.

For the Respondents: Mr. P.S. Goverdhan, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondents No. 1, 2, 7, 8, 17 & 18.

Mr. Amit Sharma, Advocate, for respondent No.6.

Mr. Akshay Katoch, Advocate, for respondents No.3 to 5 and 9 to 16.

Sandeep Sharma, J. *(Oral)*

Instant petition filed under Section 482 CrPC, lays challenge to order dated 25.11.2023 passed by the learned Judicial Magistrate First Class-1, Solan, Himachal Pradesh, in Criminal Case No. 41/2 of 2015, titled as *Roopa Devi v. Ram Kumar Verma and Ors.*, whereby an application filed under Section 311 CrPC having been filed by the petitioner, came to be allowed.

2. Precisely, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Vipin Pandit, learned counsel



for the petitioner is that while exercising power under Section 311 of CrPC, there was no occasion, if any, for the court below to permit the applicant/accused to place on record documentary evidence i.e. copy of challan, FIR and another investigation proceedings against the petitioner initiated by the police of Police Station Dharampur, District Solan, Himachal Pradesh.

3. Having heard learned counsel for the petitioner and perused the material available on record vis-à-vis reasoning assigned in the order impugned in the instant proceedings, this Court is persuaded to agree with aforesaid submission of learned counsel for the petitioner that Section 311 CrPC does not empower court to take on record additional documents, if any, rather aforesaid provision of law, enables the court to summon any person in attendance, though not summoned as a witness, or recall and re-examine a person already examined. Trial Court has power to adduce on record additional documents, which may be relevant for adjudication of the case, but same can be summoned by the court while exercising power under Section 91 of CrPC.

4. In the case at hand, petitioner filed complaint under Sections 500 and 501 of IPC (Annexure P-1) in the Court of learned Chief Judicial Magistrate, Solan, District Solan, Himachal Pradesh, which after having



perused averments contained in the application framed notice of accusation vide order dated 20.7.2018, but before proceedings could go further, respondent-accused filed an application under Section 311 CrPC, for placing on record the copy of challan, FIR and other investigation proceedings against the petitioner and interestingly, court below permitted the accused to place on record afore documents, which in no circumstance could have been adduced on record pursuant to order passed by the Court under Section 311 CrPC, rather appropriate remedy, if any, to place on record additional document is/was to file application under Section 91 of CrPC. Moreover, accused otherwise could not have invoked Section 91 of CrPC, before closure of prosecution evidence.

5. By now it is well settled that at the time of framing of the charge and taking cognizance, the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing of charge, rather he can produce documentary evidence in support of his case at the time of leading evidence in defence. If it is so, there was otherwise no occasion, if any, for the court to permit the accused to place on record additional documents as has been done while exercising power under Section 311 CrPC, especially when it is admitted case of the



parties that evidence of the petitioner is yet to commence. Reliance in this regard is placed upon judgment passed by the Hon'ble Apex Court in **State of Gujarat v. Dilipsinh Kishorsinh Rao**, LAWS (SC) 2023 10 28, relevant paras whereof read as under:

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

8. At the time of framing of the charge and taking cognizance the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing of charge. The trial court has to apply its judicial mind to the facts of the case as may be necessary to determine whether a case has been



made out by the prosecution for trial on the basis of charge-sheet material only.

9. If the accused is able to demonstrate from the chargesheet material at the stage of framing the charge which might drastically affect the very sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at that stage. The main intention of granting a chance to the accused of making submissions as envisaged under Section 227 of the Cr.P.C. is to assist the court to determine whether it is required to proceed to conduct the trial. Nothing in the Code limits the ambit of such hearing, to oral hearing and oral arguments only and therefore, the trial court can consider the material produced by the accused before the I.O.

10. It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged. This Court in State of Tamil Nadu Vs. N. Suresh Rajan And Others (2014) 11 SCC 709 adverting to the earlier propositions of law laid down on this subject has held:

“29. We have bestowed our consideration to the rival submissions and the submissions made by Mr. Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for



discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

6. Consequently, in view of the above, this court finds merit in the present petition and accordingly, same is allowed and impugned order dated 25.11.2023, is quashed and set aside. Interim order, if any, stands vacated. In the aforesaid terms, present petition is disposed of along with Misc. applications, if any.

May 4, 2026

(manjit)

**(Sandeep Sharma),
Judge**