



2026:DHC:4278



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 14.05.2026

+ **CRL.M.C. 3793/2026, CRL.M.A. 15382/2026, 15383/2026,
15385/2026 & 15384/2026**

ABHISHEK SAXENA

.....Petitioner

Through: Mr. Kirti Uppal, Senior Advocate
with Mr. Salman Hashmi, Mr. Sana
Hashmi, Mr. Zeeshan Hashmi, Mr.
Sheezam Hashmi, Mr. K. Khan, Ms.
Ashmita Shukla and Mr. Sarthak Jain,
Advocates

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Tamanna and SI Nisha
Mr. Sunil Kumar Singh and Mr.
Hariom Sharan Singh, Advocates for
R-2

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. Petitioner seeks setting aside of the order dated 30.01.2026, whereby application under Section 311 CrPC filed by prosecution was allowed by the learned trial court while holding trial arising out of case FIR No. 1363/2015



of Police Station Vasant Vihar.

2. Learned Senior Counsel appearing on behalf of petitioner/accused submits that the impugned order is not sustainable in the eyes of law as the same is completely bereft of any reason. It is submitted by learned Senior Counsel that none of the submissions raised in the reply to the application under Section 311 CrPC were dealt with by the trial court.

3. Learned APP accepts notice and in all fairness expresses inability to support the impugned order.

4. It is trite that an order passed on an application under Section 311 CrPC is an interlocutory order and Section 397(2) CrPC [Section 438 (2) BNSS] explicitly prohibits a revision petition against such orders. It is also trite that what is explicitly prohibited by law cannot be given backdoor entry by invoking inherent powers. But it is equally trite that where an order impugned before the High Court conveys a case of gross injustice or perversity, it would be justified for the High Court to invoke inherent powers. The present case, in my view falls in this category.

5. For ready reference, the relevant portion of the impugned order is extracted below:

“Accused has filed reply to the application u/s 311 CrPC. Let the same be taken on record.

Submission heard. Reply perused.

In view of the submissions made, the application u/s 311 CrPC is allowed. The complainant is recalled as witness. The



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accused will be provided with only one opportunity to cross-examine the witness on the NDOH. Application u/s 311 CrPC stands disposed of accordingly.”

6. As is obvious, the learned trial court failed to record any reason, much less discussion for rejecting the stand taken by the present petitioner in reply to the application under Section 311 CrPC. Also, none of the parameters which have to be considered while dealing with such application have been discussed in the impugned order.

7. Under these circumstances, I am unable to uphold the impugned order, so the same is set aside.

8. Consequently, the petition is allowed and matter is remanded to the learned trial court to pass a reasoned order after granting hearing to both sides on the application of prosecution under Section 311 CrPC.

9. It is informed by both sides that the trial is listed tomorrow itself. That being so, tomorrow the learned trial court shall fix a date for hearing both sides on the application under Section 311 CrPC as convenient to Calendar of the Court.

**GIRISH KATHPALIA
(JUDGE)**

MAY 14, 2026

‘rs’

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