HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.13680 of 2026

Between :

D. Balaji S/o. Nanda
Aged: about : 42 years,
Occ: Inspector of Police,
Dichpally Circle, Nizamabad District,
R/o.H.No. Quarter No.1 Govt. Police Quarters,
Jakranpaly P.S.

....Petitioner/Accused (AO)

VERSUS

The State of Telangana
Anit-Corruption Bureau,
Nizamabad
Rep by Standing Counsel &
SPL Public Prosecutor ACB

... Respondent

DATE OF ORDER PRONOUNCED: 16.09.2026

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CRIMINAL PETITION No.13680 of 2026

% Dated 16.09.2026

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... Respondents

! Counsel for Petitioner : Ms. V. Mythili

^ Counsel for Respondent : Mr. T. Bala Mohan Reddy,

learned Special Public Prosecutor

< GIST:

> HEAD NOTE:

? CITATIONS:

1. (2021) 14 SCC 1
2. (2013) 4 SCC 461
3. 2025 SCC OnLine SC 958
4. 2023 SCC OnLine SC 1086

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Criminal Petition No.13680 of 2026
(CNR No. HBHC010570002026)

Date: 16.09.2026

Reserved on: 09.09.2026 **Pronounced on : 16.09.2026**

Uploaded on : .09.2026

Between:

D.Balaji

...Petitioner/Accused (AO)

And

The State of Telangana

...Respondent

: O R D E R :

This Criminal Petition has been filed by the petitioner/Accused Officer aggrieved by the order dated 09.06.2026 passed in Crl.M.P.No.459 of 2025 in C.C. No.161 of 2024 on the file of the II Additional Special Judge for Trial of SPE and ACB Cases at Hyderabad, (for short 'the trial Court'), whereby the petition filed by the prosecution seeking to recall PW.1 for the purpose of cross-examination, was allowed.

2. Brief facts of the case :

The petitioner is Accused Officer in C.C.No.161 of 2024 and facing prosecution for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (for

short, 'P.C. Act'). During the course of trial, the prosecution examined PW.1 and his evidence was closed on 28.06.2017. Thereafter, the prosecution filed Crl.M.P.No.208 of 2024 under Section 311 of Cr.P.C. to recall PW.1 for brining the foundational facts of the case to prove the demand and acceptance of illegal gratification and for better adjudication, as he is a crucial witness. However, the learned trial Court dismissed the said petition on 25.11.2024. Thereafter, the prosecution filed Crl.M.P.No.459 of 2025 for the very same relief and the learned trial Court allowed the said petition, by its order dated 09.06.2026. Aggrieved by the same, the present criminal petition has been filed by the petitioner.

3. Heard Mr. Pappu Nageshwara Rao, learned Senior Counsel, representing Ms. V.Mythili, learned counsel for the petitioner, and Mr. Nazeeruddin Khan, learned counsel, representing Mr. T.Bala Mohan Reddy, learned Special Public Prosecutor for ACB appearing on behalf of respondent-complainant.

4. Submissions of learned Senior Counsel for the petitioner:

4.1. Learned Senior Counsel submitted that PW.1 was examined-in-chief on 05.06.2017, 19.06.2017 and 22.06.2017. Thereafter, he was cross-examined on 28.06.2017 and his re-examination was concluded on the same day. He further submitted that on 20.10.2023, the prosecution filed Crl.M.P.No.208 of 2024 seeking to

recall PW.1 and the learned Special Public Prosecutor has not pressed the said petition on 25.11.2024. Accordingly, the said petition was dismissed as not pressed. Thereafter, on 13.08.2025, the prosecution filed Crl.M.P.No.459 of 2025 for seeking to reopen and recall PW.1, without assigning any reasons, much less specific reasons, only alleging that PW.1 did not support the case of the prosecution and due to oversight, he was not declared as hostile and was not cross-examined by the prosecution and the examination of PW.1 is crucial to bring the foundational facts, especially after lapse of long period. The learned trial Court, without properly considering the contentions raised by the petitioner in the counter, erroneously allowed the petition.

4.2. He further submitted that the prosecution in earlier petition i.e., Crl.M.P.No.208 of 2024, sought recall of PW.1 on the very same grounds pleaded in Crl.M.P.No.459 of 2025. The prosecution has not prosecuted the said petition i.e., Crl.M.P.No.208 of 2024, and the same was dismissed on 25.11.2024 as not pressed and the said order has become final. In the absence of any reasons, much less specific reasons, the prosecution filed Crl.M.P.No.459 of 2025 seeking to reopen and recall of PW.1. In such circumstances, the learned trial Court ought to have dismissed the petition, on the other hand, allowed the petition, by its order dated 09.06.2026 and the same amounts to review the earlier order dated 25.11.2024, which is

not permissible under law in view of bar under Section 362 of Cr.P.C. Hence, the impugned order dated 09.06.2026 passed by the learned trial Court is liable to be quashed.

5. **Submissions of the learned Special Public Prosecutor appearing on behalf of the respondent/complainant:**

5.1. *Per contra,* learned Special Public Prosecutor submitted that PW.1 is a material witness in C.C.No.161 of 2024, as it was his initial complaint that set the criminal law in motion. He further submitted that PW.1 did not support the case of prosecution, and due to an oversight, he was not declared as hostile and was not cross-examined by the prosecution. Therefore, the prosecution filed Crl.M.P.No.459 of 2025 seeking to reopen and recall PW.1 and the learned trial Court, after considering the contentions of the respective parties, rightly allowed the petition. By virtue of the impugned order, no prejudice is going to be caused to the petitioner and the petitioner also will get an opportunity to cross-examine PW.1.

5.2. He further submitted that as per Section 311 of Cr.P.C., the parties are entitled to file a petition for recalling a material witness in order to secure the ends of justice and the provision of Section 362 of Cr.P.C. is not applicable to the interlocutory orders. The earlier order dated 25.11.2024 passed by the trial Court in Crl.M.P.No. 208

of 2024, dismissing the petition as 'not pressed', is not a bar to file a subsequent petition i.e., Crl.M.P.No.459 of 2025.

5.3. In support of his contention, he relied upon a decision of the Hon'ble Apex Court in **The State represented by the Deputy Superintendent of Police vs. N.Seenivasagan[1].**

Analysis:

6. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that the petitioner is an Accused Officer in C.C.No.161 of 2024 and he is facing prosecution for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of the P.C. Act, before the learned trial Court. The record discloses that PW.1 is a material witness and basing upon his initial complaint, the prosecution had commenced the proceedings and set the criminal law into motion. It is not in dispute that PW.1 was examined-in-chief on 05.06.2017, 19.06.2017 and 22.06.2017. He was cross-examined by the petitioner and re-examined by the learned Special Public Prosecutor on 28.06.2017 and his evidence was closed on the same day. On 20.10.2023, the prosecution filed Crl.M.P.No. 208 of 2024 under Section 311 of Cr.P.C. seeking recall of PW.1, wherein it was stated that the prosecution has to bring the foundational facts of the case to prove the demand and acceptance of illegal gratification

[1] (2021) 14 SCC 1

and also for better adjudication of the case. On 25.11.2024, the learned trial Court passed the docket order, which reads as under:

> "Learned Special P.P. has not pressed this petition. Hence, this MP is dismissed as not pressed."

7. Thereafter, the prosecution filed Crl.M.P.No.459 of 2025 under Section 311 of Cr.P.C., wherein it was stated that the complainant was examined as PW.1 and he did not support the case of prosecution, and due to oversight, PW.1 was not declared as hostile and was not cross-examined by the prosecution. Hence, reopening the case and recalling PW.1 for further re-examination/cross-examination is very much essential for adjudication of the case.

8. The learned trial Court, after considering the contentions of the respective parties and relying upon the judgment of the Hon'ble Apex Court in **Nega Begum and others v. The State of Assam and another (Criminal Appeal No.3910 of 2024)** and **Rajaram Prasad Yadav vs. State of Bihar and another**[2], allowed the petition holding that PW.1 is a material witness to the prosecution case. If an opportunity is given to the prosecution to cross-examine PW.1, no prejudice would be caused to the petitioner and the petitioner will also get an opportunity to cross-examine PW.1.

[2] (2013) 4 SCC 461

9. Insofar as the contention raised by the learned Senior Counsel for the petitioner that the earlier petition filed by the prosecution in Crl.M.P.No.208 of 2024 was dismissed as 'not pressed' on 25.11.2024 and that thereafter, the prosecution filed another petition i.e. Crl.M.P.No.459 of 2025, on the very same grounds, thereby amounting to a review of the earlier order and the same is not maintainable under law by virtue of Section 362 of Cr.P.C., is not tenable under law, on the ground that the prosecution filed Crl.M.P.No.459 of 2025 is not on the same grounds and it was filed in different grounds, wherein it was stated that PW.1 was not supported the prosecution and due to oversight, PW.1 was not declared hostile and he was not cross-examined by the prosecution. The record also discloses that the earlier petition was not decided on merits only basing upon the submission of the learned Special Public Prosecutor, the said petition i.e., Crl.M.P.No.208 of 2024, was dismissed as not pressed.

10. Even according to the parties, PW.1 is a material witness and he was not supported the prosecution and the prosecution has not declared the said witness as hostile and also not cross-examined him. The prosecution in the petition specifically averred that due to oversight, PW.1 was not declared hostile and was not cross-examined. The learned trial Court, duly taking into consideration the above said facts, rightly exercised the discretionary powers

vested upon it and passed the impugned order and by virtue of re-opening and recalling PW.1 for further examination/cross-examination by the prosecution, no prejudice would be caused to the petitioner, especially the petitioner is also entitled to cross-examine PW.1. Hence, this Court does not find any illegality or irregularity or jurisdictional error in the impugned order dated 09.06.2026 passed by the learned trial Court.

11. In **N.Seenivasagan** *(supra)*, the Hon'ble Apex Court held that the power under Section 311 Cr.P.C. is intended to enable the Court to arrive at a just decision on the basis of complete and relevant evidence. The Court may, at any stage of the proceedings, summon, examine, recall, or re-examine a witness where such evidence is essential for the just decision of the case. The decisive consideration is the necessity of the evidence, and not merely the stage at which the application is filed. Where the proposed evidence is material and necessary for a proper adjudication, the Court should exercise its power to secure the ends of justice.

12. It is relevant to mention that in **K.P.Tamilmaran V. State by Deputy Superintendent of Police[3],** the Hon'ble Apex Court held that Section 311 Cr.P.C. confers wide powers on the Criminal Court to summon, examine, recall or re-examine any witness at any stage

[3] 2025 SCC OnLine SC 958

of the proceedings. The first part of Section 311 uses "may", conferring discretion on the Court. The second part uses "shall", making the exercise of power mandatory when the evidence is essential for the just decision of the case. Thus, the essentiality of the evidence for a just decision is the decisive test. The Court is duty-bound to exercise this power where such evidence is necessary for a fair and proper adjudication. The power can be exercised even at a later stage, irrespective of the stage of the proceedings.

13. It is also relevant to mention that in **Satbir Singh v. State of Haryana and others[4],** the Hon'ble Apex Court held that the power under Section 311 Cr.P.C. is very wide and is intended to enable the Court to arrive at the truth and render a just decision. The Court observed that a witness may be recalled at any stage of the trial if such recall is essential for the just decision of the case and when the party seeking recall did not have an earlier opportunity to elicit relevant facts. It was further held that recall should not be refused on technical grounds when such examination would assist the Court in proper adjudication of the matter and when no prejudice would be caused to the opposite party, who would still have the opportunity to cross-examine the witness. Accordingly, the Hon'ble Supreme Court set aside the orders of the courts below and allowed the recall of the witness under Section 311 Cr.P.C. for further examination.

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[4] 2023 SCC OnLine SC 1086

14. The consistent principle laid down by the Hon'ble Supreme Court in **N. Seenivasagan** *(supra),* **K.P. Tamilmaran** *(supra)* and **Satbir Singh** *(supra)* is that Section 311 Cr.P.C. confers wide powers on the Criminal Court to summon, examine, recall, or re-examine a witness at any stage of the proceedings when such evidence is essential for a just and proper decision of the case. The necessity, relevance, and materiality of the evidence, rather than the stage at which the application is filed, are the decisive considerations. The power is intended to enable the Court to discover the truth and ensure a fair and complete adjudication. Where further examination or recall of a witness is necessary and does not cause prejudice to the opposite party, the application should not be rejected on mere technical grounds. Thus, the Court is required to exercise its power under Section 311 Cr.P.C. whenever the proposed evidence is essential for the just decision of the case and to secure the ends of justice. In the case on hand, as per the prosecution case, PW.1 is a material witness and he was not supported the case of the prosecution and due to oversight, he was not declared as hostile and he was also not cross-examined. The trial Court considering the said aspects, allowed the petition.

15. It is relevant to mention that the prosecution has not prosecuting the proceedings before the learned trial Court in diligent manner. The record discloses that the evidence of PW.1 was closed

on 28.06.2017. On 20.10.2023, the prosecution filed Crl.M.P.No.208 of 2024 and the same was dismissed as not pressed on 25.11.2024 at the instance of learned Special Public Prosecutor. Thereafter, on 13.08.2025, the prosecution filed Crl.M.P.No.459 of 2025 on the ground that PW.1 is a material witnesses to bring the foundational facts of the case and he was not supported the prosecution and due to oversight, he was not declared hostile and was not cross-examined by the prosecution and the said petition was allowed by the trial Court on 09.06.2026. The prosecution is having knowledge about the factum of PW.1 was not declared as hostile and he was not cross-examined by the prosecution. However, the prosecution filed petition i.e., Crl.M.P.No.459 of 2025, after lapse of nearly eight months after dismissal of Crl.M.P.No.208 of 2024 and that the matter has been pending before the trial Court since 2024 and that even according to the parties, the matter is posted for arguments. It is trite law that due to the mistake on the part of the counsel/prosecutor, the party could not be suffered. Hence, this Court is of the considered view that the learned trial Court while allowing Crl.M.P.No.459 of 2025 ought to have awarded costs against the respondent/complainant.

16. Taking into consideration the peculiar facts and circumstances of the case, the prosecution is directed to re-examine PW.1 as per the schedule fixed by the learned trial Court, without seeking any adjournment. The learned trial Court is directed to conclude the

proceedings and dispose of the C.C. as expeditiously as possible, preferably within a period of four weeks.

17. For the foregoing reasons, as well as the precedent decisions, the impugned order dated 09.06.2026 passed by the trial Court in Crl.M.P.No.459 of 2025 is confirmed, subject to the condition that the respondent/complainant shall pay an amount of Rs.5,000/- (Rupees five thousand only) to the District Legal Services Authority (Special Division), Nampally, within a period of one (1) week from today.

18. With the above said direction, this criminal petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

J. SREENIVAS RAO, J

Date: 16.09.2026

L.R. Copy to be marked.

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