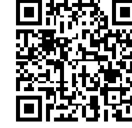

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 10.04.2026*
Judgment pronounced on: 15.04.2026
Judgment uploaded on: 15.04.2026

\+ **CRL.M.C. 2325/2026 & & CRL.M.A. 9469/2026**

MEENAKSHI GAUTAM .....Petitioner

Through: Mr. Sanjeev Sahay with Mr. Archit Rajput, Advocates.

versus

STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Naresh Kumar Chahar, APP for the State with Ms. Puja Mann, Advocate and with SI Chitra, P.S. Prashant Vihar.

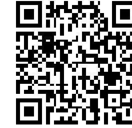
Mr. Mahesh Tiwari, Ms. Saumya Tiwari and Mr. Bishnu Prasad Tiwari, Advocates for R-2.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. The present petition has been filed seeking setting aside of the order dated 11.03.2026 [hereafter '*impugned order*'] passed by the learned Judicial Magistrate-01, Mahila Court, Rohini District Court, New Delhi [hereafter '*Trial Court*'] in Criminal Case No. 12832/2025 titled *'State vs. Sanjay Gautam'*, to the extent that the petitioner was not permitted to be recalled for further examination-in-

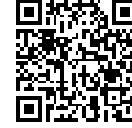


chief and was allowed to be recalled only for the purpose of cross-examination.

FACTUAL BACKGROUND

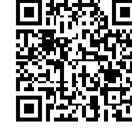
2. Briefly stated, the facts of the case, as put forth by the petitioner, are that the marriage between the petitioner and respondent no. 2 was solemnized on 22.04.2004 in Delhi according to Hindu rites and customs. Out of the said wedlock, a girl child 'K' was born on 22.10.2005. It is alleged that on 26.12.2006 the petitioner was severely beaten by respondent no. 2, following which the police had reached the spot, rescued the petitioner and had taken her to the hospital. On the same day, the petitioner had lodged a complaint against respondent no. 2 and his family members, pursuant to which FIR No. 312/2006, for commission of offence under Sections 498A/323/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'] was registered at Police Station Mahadevpura, Bangalore. It is further stated that upon learning about the incident, the petitioner's father, Sh. K.K. Gautam, and her brother Amit Gautam had reached Bangalore on 27.12.2006. Their statements were recorded by the police; however, according to the petitioner, no effective investigation was carried out thereafter. Since the petitioner had no place to stay in Bangalore and was apprehensive of residing with her in-laws, she left Bangalore along with her minor daughter after informing the police.

3. The petitioner thereafter filed a complaint on 13.03.2007 before the CAW Cell, Nanakpura, New Delhi, narrating the incidents



of cruelty and harassment allegedly committed by respondent no. 2 and his family members. However, the said complaint was closed on 21.03.2007 on the ground that an FIR regarding the same incident had already been registered at P.S. Mahadevpura, Bangalore. It is further the case of the petitioner that in January, 2008 the Investigating Officer at Bangalore filed a chargesheet under Sections 498A/323/506 of the IPC against respondent no. 2 and his family members without conducting proper investigation. According to the petitioner, her statement under Section 161 of the Cr.P.C. was not recorded and several incidents relating to cruelty, harassment and dowry demands were omitted from the chargesheet.

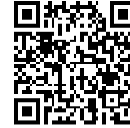
4. The petitioner states that on 12.04.2012, her examination-in-chief was recorded before the Court of the learned 10th Additional Chief Metropolitan Magistrate, Bangalore [hereafter '*ACMM, Bangalore*']. It is alleged that the statement was recorded in Kannada language, which the petitioner did not understand, and several material facts and incidents were not properly recorded. Her examination was thereafter conducted on 24.05.2014 also in Kannada. Subsequently, the petitioner filed an application under Section 173(8) of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] on 13.08.2014 seeking further investigation with respect to the incidents of cruelty which, according to her, had been omitted from the chargesheet. The said application was dismissed by the learned ACMM, Bangalore on 30.07.2015. Aggrieved by the same, the petitioner had approached the High Court of Karnataka, which by order dated 09.08.2016 set aside the order dated 30.07.2015 and



directed the Investigating Officer to collect additional evidence based on the petitioner's statement and conduct further investigation. Thereafter, respondent no. 2 and his family members challenged the said order before the Hon'ble Supreme Court of India by way of Special Leave Petition (Criminal) No. 7968/2016. The Hon'ble Supreme Court, by order dated 28.01.2025, set aside the order of the High Court of Karnataka; however, granted liberty to the petitioner to move an application under Section 311 or Section 319 of the Cr.P.C. for redressal of her grievance, if any.

5. Pursuant thereto, an application under Section 311 of the Cr.P.C. was filed by the learned Public Prosecutor before the learned ACMM, Bangalore on 13.08.2025. In the meantime, respondent no. 2 also filed Transfer Petition (Criminal) No. 628/2025 before the Hon'ble Supreme Court seeking transfer of the case from Bangalore to Delhi. The Hon'ble Supreme Court, by order dated 24.09.2025, transferred the Criminal Case No. 22068/2008 from the learned ACMM, Bangalore to the Court of the Chief Judicial Magistrate, North District, Rohini Courts, New Delhi, and directed that the trial be concluded as expeditiously as possible, preferably within six months.

6. After transfer of the case to Delhi, the learned Trial Court adjudicated the application under Section 311 of the Cr.P.C. on 11.03.2026 and partially allowed the same. However, the learned Trial Court permitted the petitioner to be recalled only for the



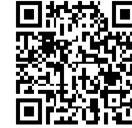
purpose of cross-examination and not for further examination-in-chief.

7. Aggrieved by the said order, the petitioner has approached this Court by way of the present petition.

SUBMISSIONS BEFORE THE COURT

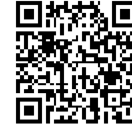
8. The learned counsel appearing for the petitioner argues that the learned Trial Court has erred in not permitting the petitioner to depose further in her examination-in-chief while deciding the application under Section 311 of the Cr.P.C. It is contended that several incidents of cruelty and domestic violence allegedly suffered by the petitioner at the hands of respondent no. 2 were neither properly investigated nor recorded in her earlier examination-in-chief before the learned ACMM, Bangalore, and therefore it was necessary to allow the petitioner to depose regarding those facts. It is further submitted that the Hon'ble Supreme Court, while granting liberty to the petitioner, had not restricted such liberty only to cross-examination, but had expressly permitted the filing of an application under Section 311 of the Cr.P.C. so that the petitioner could place on record the incidents and circumstances which had not been recorded earlier. According to the learned counsel, the learned Trial Court failed to appreciate that such additional deposition was essential for bringing on record the complete facts relating to the alleged acts of cruelty and harassment.

9. The learned counsel further contends that the investigation in the present case was not conducted properly and several incidents



relating to cruelty and dowry demands were not investigated or incorporated in the chargesheet. It is argued that the petitioner had already been prejudiced due to the incomplete investigation and the limited recording of her testimony earlier, and therefore denial of an opportunity to further depose in examination-in-chief would deprive her of placing the true and complete facts before the Court. It is also submitted that the petitioner, being the victim in the present case, cannot be made to suffer on account of lapses on the part of the prosecution or the manner in which the investigation was conducted. The learned counsel also states that the application under Section 311 of the Cr.P.C. had itself been moved by the prosecution, and therefore the learned Trial Court ought to have permitted the petitioner to be recalled for further examination-in-chief instead of restricting the recall only to the purpose of cross-examination.

10. *Conversely*, the learned counsel appearing for respondent no. 2 argues that there is no infirmity in the impugned order passed by the learned Trial Court. It is submitted that the examination-in-chief of the petitioner had already been recorded at length on 12.04.2012 and she was again examined on 24.03.2014, after which the matter was adjourned for her cross-examination. However, thereafter the petitioner did not appear before the learned ACMM, Bangalore for the purpose of cross-examination and was eventually dropped as a witness on 31.07.2025. It is contended that permitting the petitioner to be recalled for further examination-in-chief at this stage would cause serious prejudice to the accused, since her examination-in-chief has already been recorded on two occasions. According to the learned



counsel, if the petitioner is to be recalled, it should only be for the purpose of cross-examination, particularly when on 24.03.2014 the matter had been specifically adjourned for cross-examination but the petitioner failed to secure her presence before the Court.

11. It is further contended that the petitioner seeks to have her further examination-in-chief recorded only with a view to level fresh and false allegations against her father-in-law and brother-in-law, which she had not stated in her examination-in-chief recorded earlier in the years 2012 and 2014. The learned counsel further draws the attention of this Court to the order dated 28.01.2025 passed by the Hon'ble Supreme Court and submits that the conduct of the petitioner has also been commented upon in the said order, wherein certain *prima facie* observations were made against her. It is also pointed out that the trial in the present case is required to be concluded within a short time, in terms of the directions issued by the Hon'ble Supreme Court. It is therefore prayed that the present petition be dismissed.

12. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent no. 2, and has pursued the material placed on record.

ANALYSIS & FINDINGS

13. In the present case, some relevant dates and events to be taken note of are that the examination-in-chief of the petitioner was recorded before the learned ACMM, Bangalore on 12.04.2012 and she was again examined on 24.03.2014, after which the matter was adjourned for her cross-examination. In the meantime, the petitioner

filed an application under Section 173(8) of the Cr.P.C. seeking further investigation, which was dismissed by the learned Trial Court on 30.07.2015. The said order was challenged before the High Court of Karnataka, which *vide* order dated 09.08.2016 had directed the Investigating Officer to collect additional evidence on the basis of the petitioner's statement and to carry out further investigation. However, the said order of the High Court of Karnataka was challenged before the Hon'ble Supreme Court, which *vide* order dated 28.01.2025 set aside the order of the High Court. However, the petitioner did not thereafter appear before the learned ACMM, Bangalore for the purpose of cross-examination and was eventually dropped as a witness on 31.07.2025. The prosecution had thereafter filed an application under Section 311 of the Cr.P.C. before the learned ACMM, Bangalore on 13.08.2025, which eventually stood transferred to the learned Trial Court in Delhi.

14. In above background, the impugned order dated 11.03.2026, passed by the learned Trial Court, partially allowing the application under Section 311 of Cr.P.C., reads as under:

> "1. Vide this order, I shall decide the application u/s 311 Cr.P.C filed on behalf of the prosecution to examine PW-1, CW-4 to CW-6.
>
> 2. Arguments on the same have been heard earlier.
>
> **Arguments advanced by the Ld. APP**
>
> 3. It was argued by the Ld. APP that PW-1 is the complainant of the present case and on account of her repeated non appearance she was dropped from the array of witnesses on 31.07.2025. Further, on the said day itself CW-4 to CW-6 were dropped as a report of the witness not found was received. It was argued that the dropping of PW-1 from the list of witnesses would have an effect that her evidence which has already been recorded at length on two occasions would not be read in evidence while she is the complainant of the

present case and she is the most crucial witness of the prosecution. It was argued that CW-4 to CW-6 are also the witnesses whose testimony is not of formal nature and they have been dropped on account of the report not found, thus, the said witnesses be also afforded an opportunity to appear and to depose as they are material witnesses.

Arguments advanced by the Ld. Defence Counsel

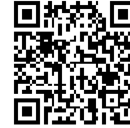
4. It was argued on behalf of the defence that on 12.04.2012 the complainant/PW-1 was examined in chief at length, subsequently on 24.03.2014 she was again examined in chief at length and the matter was adjourned for the cross examination. Thereafter, the complainant did not appear before the court concerned and she was dropped on 31.07.2025. Also, CW-4 to CW-6 were dropped on account of the report of not being found. It was argued that recalling of PW-1 would cause grave prejudice to the accused as her examination in chief has already been recorded at length on two occasions and her recall maybe permitted only for the purpose of cross examination as on 24.03.2014 when PW-l was examined in chief, the matter was adjourned for the cross examination of witness but she did not secure her appearance before the court and was ultimately dropped.

Arguments advanced by the Complainant

5. It was argued on behalf of the complainant that she be allowed to depose and to conclude her testimony as she is the material witness of the prosecution. Further, it was argued that CW-4 to CW-6 are also material witnesses and their testimony is of importance, thus, they be also recalled for examination.

6. Arguments advanced have been considered. The record has been thoroughly perused.

7. Perusal of the record reflects that on 12.04.2012 and on 24.03.2014 PW-1 was examined in chief and the matter was posted for the cross examination of PW-1. Subsequently, in July 2025, PW-1 was dropped by the Ld. Transferor Court. Now, the present application has been filed by the prosecution U/s 311 CrPC. The essence of the provision is that evidence which appears to be essential for the just decision of the case is to be duly considered. Now, PW-1 is the complainant of the present case and the case of prosecution is completely based upon the complainant who has been dropped from the list of witnesses. The Hon'ble Apex Court in the case titled as ***Mohan Lal Shamji Soni Vs. Union of India*** 1521 (SC) 1991 has held that any person can be summoned as witness or recalled or reexamined at any stage of proceeding where essential. Thus, drawing strength from the same, the court is of the view that PW-l being the complainant of the present case is a material witness whose testimony is important for the just decision of the case. Accordingly, PW-1 is hereby recalled for her cross examination for the NDOH. It is also clarified that she is recalled for the cross



examination only as after recording of the chief examination on 24.03.2014, the matter was adjourned for the cross examination of the complainant but subsequently on account of her absence she was dropped.

So far as the question of CW-4 to CW-6 is concerned, then it is a matter of fact that the 'said witnesses have not stepped in the witness box till date and the process issued was returned with the report 'not found'. The said witnesses are not formal witnesses and are witnesses of an independent in nature, thereby being the material witnesses their testimony becomes crucial. Accordingly, one more opportunity is afforded to the prosecution to examine CW-4 to CW-6. Hence, with the said observations, the application filed U/s 311 CrPC is hereby **allowed**.

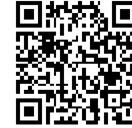
8. Now to come up for cross examination of PW-1 13.03.2026 at 01:00 PM. Simultaneously, let summons be issued to the CW-4 to CW-6 for NDOH through all modes."

15. From a reading of the impugned order, following aspects can be inferred:

(i) The application under Section 311 of the Cr.P.C. was preferred by the prosecution;

(ii) The application was filed on the ground that the complainant/PW-1, who is the most material witness in the present case, had been dropped from the list of witnesses on account of her repeated non-appearance, and that if she was not recalled, the evidence already recorded by her would not be read in evidence; it was also stated that CW-4 to CW-6 were material witnesses who had earlier been dropped on account of the report of 'not found', and therefore they also deserved one more opportunity to be examined;

(iii) The complainant (petitioner herein) had argued that she ought to be permitted to depose and complete her testimony as

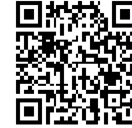


she was the principal witness in the prosecution case, and that CW-4 to CW-6 were also material witnesses whose testimonies were important for proper adjudication of the case; and

(iv) The learned Trial Court formed an opinion that the testimony of the complainant was essential for a just decision of the case and therefore she deserved to be recalled; *however*, since her examination-in-chief had already been recorded earlier and the matter had been adjourned only for cross-examination in the year 2014, the learned Trial Court permitted her recall only for the purpose of cross-examination.

16. The *petitioner now contends* that the learned Trial Court erred in restricting her recall only for the purpose of cross-examination and in not permitting her to further depose in examination-in-chief, since the investigation in the present case had not been conducted properly and several incidents of cruelty allegedly suffered by the petitioner were neither investigated nor brought on record by the police, and also could not be deposed about before the learned ACMM, Bangalore earlier, and thus, in view of the liberty granted by the Hon'ble Supreme Court to move an application under Section 311 of the Cr.P.C., the petitioner ought to have been permitted to place the complete facts before the Court by way of further examination-in-chief.

17. The *respondent no. 2, on the other hand, asserts* that the examination-in-chief of the petitioner had already been recorded at



length on two occasions and the matter had thereafter been adjourned for her cross-examination, and further that neither in the FIR nor in the examination-in-chief recorded earlier were any allegations levelled against the father-in-law or brother-in-law of the petitioner, and that the present attempt to seek further examination-in-chief is only to introduce fresh and false allegations against them at a belated stage, as also noted by the Hon'ble Supreme Court.

18. To appreciate the rival contentions, it shall be apposite to carefully consider the observations of the Hon'ble Supreme Court in order dated 28.01.2025 (reported as ***Rampal Gautam v. State:*** *2025 SCC OnLine SC 1231*), which are set out below for reference:

> "**3.** The appellants herein are the father-in-law, mother-in-law, brother-in-law, and sister-in-law respectively of respondent No. 2-complainant. The marriage between the complainant and Sanjay Gautam, son of the appellant Nos. 1 and 2 was solemnized on 22nd April, 2004. The spouses started living together in Bangalore from 8th May, 2004. The complainant filed a complaint against her husband Sanjay Gautam at the Police Station Mahadevpura, Bangalore on 26th December, 2006 alleging *inter alia* that her husband had gone somewhere on 24th December, 2006 without informing her. He returned home on 26th December, 2006 and started assaulting her by giving blows on face and causing her injuries. In the morning, he also tried to beat their daughter and demanded that the complainant should bring money from her parents. He went away from the house after beating the complainant and threatening her not to move out without his permission.
>
> **4.** Based on this report, Crime No. 312 of 2006 came to be registered at Police Station, Mahadevpura for the offences punishable under Sections 498A, 323 and 506 of the Penal Code, 1860 6 and investigation was commenced. The statement of various witnesses including that of the complainant and her father Shri K.K. Gautam, were recorded by the Investigation Officer. So far as the appellants are concerned, neither in the FIR nor in the statements of the complainant or her father K.K. Gautam, was a whisper made regarding any act of harassment in connection with demand of dowry or otherwise, as against them.

5. Be that as it may, complainant claims to have returned to Delhi where she submitted a typed complaint to the In-charge of Crime Against Women Cell, Nanakpura, New Delhi on 13th March, 2007, wherein, allegations of physical and mental torture were levelled against her husband and the appellants Rampal Gautam(father-in-law), Rajini Gautam(mother-in-law), Smt. Vandana Sharma(sister-in-law), and Sameer Gautam(brother-in-law), owing to dowry demand. However, the police officers of the CAW Cell were apprised of the fact that an FIR had already been registered for the offences punishable under Section 498A, 323 and 506, IPC at Police Station, Mahadevapura, Bengaluru and thus, no further action was required to be taken on the complaint filed by the complainant. It would be relevant to mention here that the complainant took no further steps to prosecute the complaint lodged by her at the CAW Cell.

6. In the meantime, the investigation was continued in Crime No. 312 of 2006, and a charge sheet came to be filed against the husband Sanjay Gautam in the Court of 10th Additional Chief Metropolitan Magistrate, Bangalore who, *vide* order dated 21st February, 2011, framed charges against the said accused for the offences punishable under Sections 498A, 323 and 506, IPC.

7. The prosecution evidence commenced, and the initial examination-in-chief of the complainant was recorded on 12th April, 2012, wherein, she did not utter a single word regarding the role of the accused appellants in harassing or humiliating her. Further, examination-in-chief of the complainant was recorded on 24th March, 2014 wherein, she reiterated her earlier allegations and added that her mother-in-law(appellant No. 2) and sister-in-law(appellant No. 4) had also been harassing her, imputing that if her husband Sanjay had been married to someone else, they would have gotten more dowry.

8. Even in this improved version recorded nearly eight years after the lodging of the FIR, not a whisper of an allegation was made by the complainant against Rampal Gautam(father-in-law) and Sameer Gautam(brother-in-law). After the examination-in-chief of the complainant was completed, she filed an application before the trial Court, seeking a direction for further investigation of the case by resorting to the procedure provided under Section 173(8) Criminal Procedure Code, 1973.

9. In the prayer clause (c) of this application, the complainant prayed that a *de novo* investigation be carried out in respect of the averments of cruelty inflicted upon her by the accused appellants with reference to three documents i.e., the complaint dated 13th March, 2007 and written statements filed by her, in the two divorce cases filed by her husband bearing HMA No. 337/08/07 and HMA No. 402 of 2011, before the Family Court, Delhi. Thus, primarily, the prayer of the complainant in this application was for a *de novo* or reinvestigation.

10. Learned Magistrate rejected the said application *vide* order dated 30th July, 2015 holding that there was absolutely no ground whatsoever to direct further/fresh investigation sought for by the complainant. The order passed by the Magistrate was assailed by the complainant by filing a criminal petition under Section 482 CrPC before the High Court of Karnataka at Bengaluru which came to be allowed by the learned Single Judge of the High Court *vide* order dated 9th August, 2016 directing that further investigation be carried out in the matter in terms of the application filed by the complainant. The said order is assailed in this appeal by special leave filed at the instance of the appellants herein.

11. We have heard and considered the submissions advanced by learned counsel for the parties at bar and have gone through the material placed on record.

12. At the outset, we may record that a direction to conduct further investigation even after filing of the chargesheet and commencement of the trial is permissible in law as has been held by a catena of judgments of this Court. Reference in this regard may be made to *Hasanbhai Valibhai Qureshi* v. *State of Gujarat* wherein, this Court observed that the prime consideration for directing further investigation is to arrive at the truth and to do real substantial justice. The Court further observed that further investigation and reinvestigation stand altogether on a different footing. Even *de hors* any direction from the Court, it is open to the police to conduct a proper investigation notwithstanding the fact that the Court has already taken cognizance on the strength of a police report submitted earlier. However, a caveat was added that before directing such investigation, the Court or the concerned police officer has to apply mind to the material available on record and arrive at a satisfaction that investigation of such allegations is necessary for the just decision of the case.

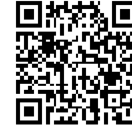
13. On going through the material placed on record, we find that in the present case, the High Court grossly erred and transgressed its jurisdiction, while directing fresh investigation into the matter, totally ignoring the fact that the application filed under section 173(8) CrPC was highly belated. At the cost of repetition, it is to be noted that the complainant had already testified at the pending trial against her husband Sanjay Gautam and in the deposition made on 12 th April, 2012, no allegation whatsoever has been levelled against the appellants. Even in the deferred examination-in-chief recorded on 24th March, 2014, absolutely vague allegations were levelled against appellant No. 2.

14. Undeniably, the complainant had the liberty to set out her entire case/grievances in her examination-in-chief and make a prayer to the trial Court that the remaining family members who had been left out, should also be proceeded against by summoning them under Section 319 CrPC. If, at all, certain facts were left out from being narrated in

> the deposition of the complainant, an application under Section 311CrPC could have been filed for recalling her and for conducting the further examination. In any event, there was no justification whatsoever for the High Court to have directed further investigation into the case at such a belated stage and that too, for the purpose of giving a handle to the complainant to improve upon her initial version so as to implicate her father-in-law, mother-in-law, sister-in-law and brother-in-law, who were admittedly living separately whereas, the spouses, *i.e.*, the complainant and her husband were residing together at Bangalore, where the alleged acts of cruelty took place.
>
> **15.** As an upshot of the above discussion, we are of the firm view that the impugned order dated 9thAugust, 2016 passed by the High Court is unsustainable in the eyes of law and deserves to be quashed and set aside.
>
> **16.** The complainant is left at liberty to take recourse of the suitable remedy for ventilating her grievances which would include filing of an application under Section 311 CrPC and/or an application under Section 319 CrPC, as may be desired.
>
> **17.** Resultantly, the impugned order is quashed and the appeal is allowed."

19. It is important to note that the Hon'ble Supreme Court, while setting aside the order of the High Court of Karnataka directing further investigation in the case, has made several *prima facie* observations regarding the conduct of the complainant, who is the petitioner before this Court.

20. The Hon'ble Supreme Court, after examining the record of the case, specifically noted that in the FIR as well as in the statements recorded during investigation, including the statement of the complainant and that of her father, no allegation had been levelled against the father-in-law, mother-in-law, brother-in-law or sister-in-law. It was further observed that when the complainant had entered the witness box during trial, her examination-in-chief recorded on 12.04.2012 did not contain even a single allegation regarding



harassment by the in-laws. It was only in the subsequent examination-in-chief recorded on 24.03.2014 that certain allegations were made against the mother-in-law and sister-in-law. Even these allegations were described by the Hon'ble Supreme Court as '*vague*'. Significantly, the Hon'ble Supreme Court noted that even in this improved version, not a single allegation had been made against the father-in-law and brother-in-law.

21. The Hon'ble Supreme Court also took note of the fact that after returning to Delhi, the complainant had submitted a typed complaint dated 13.03.2007 before the CAW Cell, Nanakpura, New Delhi, wherein allegations of physical and mental cruelty were levelled not only against her husband (respondent no. 2 herein) but also against the father-in-law, mother-in-law, sister-in-law and brother-in-law in relation to dowry demands. *However*, admittedly, no further action was taken on the said complaint since an FIR regarding the same incident had already been registered at Police Station Mahadevpura, Bangalore. The Hon'ble Supreme Court also observed that the complainant had taken no further steps to pursue the complaint lodged before the CAW Cell.

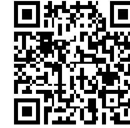
22. Another significant aspect noted by the Hon'ble Supreme Court was that the application under Section 173(8) of the Cr.P.C., seeking further investigation, had been filed at a very belated stage after commencement of the trial. The Supreme Court specifically held that the High Court had erred in directing further investigation in such circumstances and observed that such a direction would

effectively give a handle to the complainant to improve upon her initial version so as to implicate the other members of the family; and that the in-laws were admittedly residing separately, whereas the complainant and her husband were living together in Bangalore where the alleged acts of cruelty had taken place. These observations formed part of the reasoning of the Hon'ble Supreme Court, while setting aside the order of the High Court directing further investigation in the case.

23. Therefore, the contention of the petitioner that she should be permitted to be recalled for recording of further examination-in-chief has to be adjudged in the above-noted backdrop.

24. This Court is of the view that permitting further examination-in-chief at this stage would effectively mean reopening testimony that was recorded more than a decade earlier, i.e., in the years 2012 and 2014. Such reopening of evidence, particularly when the petitioner had already entered the witness box and her examination-in-chief had been recorded on two occasions, cannot ordinarily be permitted unless compelling circumstances are shown.

25. The argument advanced on behalf of the petitioner that her earlier deposition had been recorded in Kannada and that she was unable to understand the proceedings is also not convincing. The record reflects that the petitioner had appeared before the Court and had deposed on two separate occasions. At no point during the intervening years did she challenge the correctness of the deposition recorded by the learned ACMM, Bangalore on the ground that the



language of the proceedings had caused any prejudice to her. The issue is being raised only at this belated stage, after the passage of several years.

26. It is also relevant to note that while the Hon'ble Supreme Court set aside the order directing further investigation, it granted liberty to the complainant to take recourse to appropriate remedies, including filing an application under Section 311 or Section 319 of the Cr.P.C., if so advised. However, such liberty cannot be construed as a direction that further examination-in-chief must necessarily be permitted. Any application under Section 311 of the Cr.P.C. is required to be considered by the Court in accordance with the well-settled parameters governing the exercise of powers under the said provision. Similarly, reliance placed by the petitioner on the observations contained in paragraph 14 of the order of the Hon'ble Supreme Court, wherein it was noted that – if certain facts were left out from being narrated in the deposition of the complainant an application under Section 311 Cr.P.C. could have been filed for recalling her for further examination – cannot be read to mean that the Hon'ble Supreme Court had directed that such an application should necessarily be allowed. In this Court's opinion, the said observation only highlights that the complainant had the option of invoking the remedy under Section 311 of Cr.P.C. at the appropriate stage, instead of seeking a direction for fresh investigation, which she did not opt for.

27. Another relevant circumstance which cannot be ignored is that the complainant herself did not avail the liberty of filing an application under Section 311 of Cr.P.C. in terms of the order of the Hon’ble Supreme Court. In fact, the record reveals that the complainant did not appear before the concerned Court for the purpose of her cross-examination and she eventually had to be dropped as a witness on 31.07.2025. It was only thereafter that the prosecution (not the petitioner) moved the application under Section 311 of the Cr.P.C. seeking recall of the petitioner, primarily because if the main witness i.e. petitioner/complainant was dropped, the testimony already recorded would not have been read in evidence.

28. Thus, the application under Section 311 of the Cr.P.C. was not filed by the petitioner in pursuance of the liberty granted by the Hon’ble Supreme Court, but was moved by the prosecution owing to the fact that the complainant had not appeared for cross-examination. In these circumstances, the learned Trial Court has adopted a balanced approach by permitting the complainant to be recalled for the purpose of cross-examination, which was the stage at which the matter had remained pending earlier.

29. In the opinion of this Court, the learned Trial Court has exercised its discretion under Section 311 of the Cr.P.C. in a judicious manner. By permitting recall of the complainant for cross-examination, the learned Trial Court has ensured that the testimony already recorded does not go out of consideration, while at the same time safeguarding the rights of the accused. On the other hand,

permitting a fresh or further examination-in-chief at this stage would amount to reopening the prosecution case and allowing the petitioner to introduce allegations which were not part of the FIR or earlier testimony recorded on two occasions in the past.

30. In view of the above discussion, this Court finds no infirmity or illegality in the impugned order dated 11.03.2026 passed by the learned Trial Court.

31. Accordingly, the present petition is dismissed. Pending application, if any, also stands disposed of.

32. Nothing contained in this order shall affect the merits of the case during the trial.

33. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 15, 2026/zp
T.D.