



2026:AHC-LKO:19308

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 238 of 2026

Angad Prasad Shukla

.....Revisionist(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Kaushal Kishore Tewari, Shakti
Counsel for Opposite Party(s)	:	G.A.

Court No. - 27

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. The instant criminal revision under section 397/401 Code of Criminal Procedure read with Section 438/442 of Bharatiya Nagrik Suraksha Sanhita, 2023 against order dated 10-02-2026 passed by the learned Special Judge E.C.Act/ Additional Session Judge, Barabanki passed in Session Trial no-354 of 2016 (State vs Pradeep @ Pappu & others) by which the application moved by the revisionist under section 311 Cr.P.C. for summoning the witness was rejected.

2. Heard learned Counsel for the revisionist, learned Additional Government Advocate for the State and perused the record.

3. Learned counsel for the revisionist submits that the revisionist/ informant is an injured in the case. He had gone CT Scan and X-ray done by Dr. Shivangi Garg on 15.10.2022. Dr. Suryang Chaurasia (P.W.- 10) in his statement dated 16.10.2022 before the court has stated that the injuries of the injured are grievous in nature and he has proved the medical papers authored and prepared by Dr. Shivangi Garg. Revisionist has moved the application before trial court for summoning Dr. Shivangi Garg as witness in the case to prove CT Scan and X-ray report of the informant/ injured. Learned court below has dismissed the application in cursory manner, observing that the earlier the same applicant/ informant had moved an application under section 239 B.N.S.S. for adding charge under section 307 IPC which has already been dismissed. The papers prepared by Dr. Shivangi Garg has already been proved through

secondary evidence, therefore, due non-examination of the said Dr. Shivangi Garg, no adverse effect will be done on merit of the case. The informant has raised this issue at the stage of final arguments. Learned court below has dismissed the application and fixed a date for recording the statement of the accused under section 313 CrPC.

4. From the bare perusal of Section 311 Cr.P.C. it is obvious that any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential for the just decision of the case.

5. The guiding factor is whether summoning of witness in question is essential for just decision of the case. The secondary evidence is admissible where it is physically not possible to produce the witness who is author of the documents. It is nowhere stated in the impugned order that the appearance of the said witness, Dr. Shivangi Garg, is not possible due to particular circumstances.

6. Learned counsel for the revisionist has submitted that Dr. Shivangi Garg is posted in Lucknow and she may be easily produced before the court as the said witness can only prove the medical papers prepared by her as a primary evidence.

7. It cannot be doubted that the evidence of Dr. Shivangi Garg is essential for just decision of the case and she could be produced in the witness box with regard to document prepared by her.

8. Learned A.G.A. has submitted that for production of said medical paper, witness is essential for just decision of the case.

9. In view of the above no useful purpose will be served in keeping this revision pending as the trial is proceeding towards its conclusion, therefore, I find that a legal error has occurred in the impugned order passed by the court below and the same is not sustainable. The impugned order is hereby **set aside** and learned trial court is directed to summon Dr.

Shivangi Garg as witness to prove the medical papers through primary evidence.

10. It is needless to say that revisionist/ informant and public prosecutor will assist the court for ascertaining the present place of posting of Dr. Shivangi Garg so that she may be summoned with expedition.

11. The criminal revision stands **allowed** with the above observations and directions.

(Ram Manohar Narayan Mishra,J.)

March 17, 2026

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