SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			C528/2596/2026 M/s A.s Infrastructure --Applicant **Versus** M/s Sabal Constructions --Respondent **Hon'ble Alok Mahra, J.** Mr. Rajat Mittal, Advocate for the applicant. 2. By way of the instant Criminal Miscellaneous Application, the applicant has challenged the order dated 15.05.2025 passed by learned Judicial Magistrate, Vikas Nagar, District Dehradun, in Complaint Case No. 696 of 2022, whereby the opportunity afforded to the applicant to cross-examine the complainant was closed. The applicant has also challenged the subsequent order dated 01.10.2026 passed by learned Additional Chief Judicial Magistrate, Vikas Nagar, District Dehradun, in the same complaint case, whereby the application filed by the applicant under Section 311 Cr.P.C. seeking recall of the complainant for further cross-examination was rejected. 3. Learned counsel for the applicant submits that the applicant has been diligently pursuing the proceedings before the learned trial Court; however, due to certain inadvertent circumstances beyond his control, he could not establish timely communication with his counsel, as a

result of which the opportunity to cross-examine the complainant came to be closed. It is further submitted that the cross-examination of the complainant is essential for an effective adjudication of the complaint and for affording the applicant a fair opportunity to defend himself. Denial of such an opportunity would cause serious prejudice to the applicant and may result in a failure of justice. Learned counsel further submits that the next date fixed before the learned trial Court is 26.11.2026 and prays that the applicant may be granted one final opportunity to cross-examine the complainant on the said date itself.

4. Having considered the submissions advanced by learned counsel for the applicant and upon perusal of the material available on record, this Court finds that, although the applicant may not have been sufficiently diligent in pursuing the proceedings before the learned trial Court, the right of an accused to cross-examine a material witness is an important facet of a fair trial. Such an opportunity cannot be denied merely on account of procedural default, particularly when its denial may cause prejudice to the defence and affect the just adjudication of the case.

5. Hon'ble Supreme Court in Zahira Habibullah H. Sheikh and another Vs. State of Gujarat and others, reported in (2004) 4 SCC 158, has emphasized that a fair trial is an essential component of the administration of criminal justice and that a reasonable opportunity to test the testimony of witnesses is integral to the fairness of the proceedings.

6. Similarly, in Natasha Singh Vs. Central Bureau of Investigation, reported

			in (2013) 5 SCC 741, Hon'ble Supreme Court has observed that the power to recall a witness under Section 311 Cr.P.C. is to be exercised where such recall appears essential for the just decision of the case. The paramount consideration while exercising such power is to ensure that justice is not defeated on account of procedural technicalities. 7. In the present case, the complainant is a material witness whose testimony may have a bearing on the adjudication of the complaint. An opportunity to cross-examine the complainant would enable the applicant to test the veracity of the testimony and put forth his defence effectively. This Court is, therefore, of the view that, notwithstanding the lack of due diligence on the part of the applicant, one final opportunity deserves to be granted to him in the interest of justice. 8. In view of the foregoing discussion, the instant Criminal Miscellaneous Application is allowed. The impugned orders dated 15.05.2025 and 01.10.2026 passed by learned trial Court are hereby set aside. Consequently, the application filed by the applicant under Section 311 Cr.P.C. stands allowed, subject to the following conditions: (i) The applicant shall deposit a sum of ₹15,000/- towards costs with the Advocates' Welfare Fund maintained by the High Court Bar Association, within a period of one week from today. (ii) Learned trial Court shall recall the complainant for the purpose of his cross-examination and afford the applicant one final opportunity to cross-examine him. (iii) The applicant shall ensure the

			presence of his counsel on the date fixed for cross-examination and shall not seek any adjournment on that date. The cross-examination shall be conducted and concluded on the same date, as far as practicable. (iv) In the event the complainant is not present on 26.11.2026, learned trial Court shall fix an early date for his appearance and cross-examination, without granting any unnecessary adjournment. **(Alok Mahra, J.)** 21.11.2026 *Arpan* ARPAN JAISWAL Digitally signed by ARPAN JAISWAL DN: c=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND, 2.5.4.20=ed0b9d8b3895e419312fe6c2396fa04985365445e3a204dd8739319819f6f402ba3e, postalCode=263001, st=UTTARAKHAND, serialNumber=060FC1702BEAE3DE215D680D0454C5193C8897F4e2f2154D5944A5DA3C2CEA66, cn=ARPAN JAISWAL Date: 2026.11.21 15:36:54 +05'30'