

ORDER BELOW EXH. 62 IN C. C. No. 5401734/SC/2021
(CNR NO. MHMM120221322021)

Perused the application and say. Heard both parties. Read the following citations filed by the accused.

- i) Mr. Shankar Damodar Lotlikar V/s. Mr. Pundalik Venktesh Verlekar, Criminal Writ Petition No. 253 of 2019 dtd. 09/03/2020.
- ii) Ashutosh Pathak V/s. State of Uttar Pradesh and anr., 2025 SCC OnLine SC 1341, dtd. 04.02.2025.

It seems that due to consistent absency of complainant, evidence of complainant was discarded.

By this application, complainant is praying for recalling of his power of attorney holder (C.W.1) U/s. 311 of Cr. P. C. Most importantly this present application is only signed by the advocate of complainant. It is important to note here that the evidence of complainant is already closed. Now without setting aside this order no witness of complainant can be recalled. But complainant has not applied for setting aside the evidence closed order in this matter. As per complainant due to his health issues C.W.No.1 was unable to attend the court. No medical documents for supporting the contention stated in the application that the C.W.No.1 cannot appear for facing cross examination due to health issues are filed on record by the complainant. The complainant wants to produce C.W.1 through V.C. for that purpose provided his email id.. It is important to state that as per the Gazette of Maharashtra state the rules stated therein has to be followed for examining any witness through V.C. So, this witness cannot be allowed to examined as per request, by sending link on his email.

C.W. no.1 was given ample opportunity to appear for cross examination and also for filing documents about his illness ,but he failed to do so. So, his evidence was rightly discarded .This application is filed very lately for recalling. This itself shows that complainant is not prompt in this matter. Hence, considering the reasons above the application is rejected.

Date : 15/04/2026.
SVP

(N. B. Ghatage)
Judicial Magistrate (First Class),
54th Court, Mazgaon, Mumbai.