

This order arises out of an application under Section 311 of Cr.P.C on behalf of complainant. In the application it is stated that the certified copy of Judgment passed by the Joint Director in case No.JRB/Dava/29-C/02/2020-21 dated 23.03.2021, the certified copy of complaint dated 31.08.2019 given by Sri. B.R. Ranganatha, the certified copy of charge sheet filed by Vijayanagar Police Station in Crime No.278/2019, the certified copy of order sheet in WP No.25115-116/2017 (CS-RES) dated 21.09.2017 on the file of Hon'ble High Court of Karnataka, Bengaluru, letter dated 03.04.2019 sent by the complainant to Chief Secretary, Co-operative Department and copy of notice sent to the accused along with postal receipt and returned RPAD Cover are not marked. The said documents are material to decide the case in the interest of justice.

2. The counsel for the accused filed objections to oppose the application on the ground that the court has already recorded the statement of the accused under Section 313 of Cr.P.C and now the case is posted for arguments. So, after lapse of ten years the present application has been filed only with an intention to drag the case. At this stage the prosecution has filed the present application to mark the documents which is not maintainable either in law and the same is liable to maintainable in the eye of law and is liable to be rejected with cost. Once witness has been examined such witness should not have been called for further re-examination. If the application is allowed it will cause great hardship and irreparable loss to the accused. On the other

hand no injustice would be cause to the complainant if the application is rejected.

3. Heard the argument both side.

4. The point that arises for the consideration of the court is as under;

**Whether the complainant has made out sufficient and proper grounds to allow the application?**

5. Perused the records. The above point is answered in the **Affirmative** for the following;

**REASONS**

6. During the arguments the learned counsel for the complainant has reiterated the contents of the application and relied upon the citations decided by the Hon'ble Apex Court in the case of V.N.Patil Vs K.Niranjan Kumar and Ors in Crl.Appeal Nos.267 of 2021 (Arising out of SLP(Crl.)No(s).8965 of 2018) dated 04.03.2021 and Crl.Appeal No.1021 of 2022 dated 08.08.2022 in the case of Varsha Garg Vs The State of Madhya Pradesh and Ors reported in Hon'ble Supreme Court of India.

7. Per contra, the learned counsel for the accused has also reiterated the contents of objections and relied upon the citations is mentioned as under;

1. Swapan Kumar Chatterjee Vs CBI on 04.01.2019.

2. State Vs Satpal Singh on 22.03.2014.

3. Rajaram Prasad Yadav Vs State of Bihar and Another on 04.07.2013.

4. AIR Online 2021 Chh 517 in the case of Yogesh Bapai Vs State of Chhattisgarh.
5. AIR Online 2020 Raj 86 in the case of Siya Ram Vs State of Rajasthan.
6. AIR Online 2021 Tri 58 in the case of Bijoy Sankar Paul Vs Suvadip Bhattacharjee.
7. 2001 Cri.L.J.450:: 2001 All MR (CRI) 314 in the case of B.D. Goel Vs Ebrahim Haji Husen Sanghani and Others.

**8.** A perusal of the records the evidence of prosecution has been closed and when the matter was posted for statement of the accused persons under Section 313 of Cr.P.C, the present application has been filed. Therefore, the contention taken by the accused that the statement of the accused persons have been already recorded is false. By way of proposed application the complainant wants to mark the certified copies of Judgment passed by the Joint Director in case No.JRB/Dava/29-C/02/2020-21 dated 23.03.2021, the certified copy of complaint dated 31.08.2019 given by Sri. B.R. Ranganatha, the certified copy of charge sheet filed by Vijayanagar Police Station in Crime No.278/2019, the certified copy of order sheet in WP No.25115-116/2017 (CS-RES) dated 21.09.2017 on the file of Hon'ble High Court of Karnataka, Bengaluru, letter dated 03.04.2019 sent by the complainant to Chief Secretary, Co-operative Department and copy of notice sent to the accused along with postal receipt and returned RPAD Cover.

9. The certified copy of order passed by the Joint Director of Assistant Registrar of Co-operative Societies in case No.JRB/Dava/29-C/02/2020-21 dated 23.03.2021. The accused No.1 and 2 , respondent No.6 and 1 respectively. The certified copy of the FIR, charge sheet reflects that the accused No.1 and 2 in Cr.No.278 of 2019 on the file of Vijayanagar Police Station. The certified copy of the orders passed in WP No.25115-116/2017 (CS-RES) dated 21.09.2017 reflects that the complainant herein was the petitioner and accused No.2 G.Ramakrishna, accused No.3 N.Ranganatha were respondents in the said case. The copy of complaint sent to the Secretary of Co-operative Department and office of the legal notice, postal receipt prima facie case to mark the same in the evidence.

10. I have perused the citations relied on behalf of accused. The counsel for accused relied upon the citations decided by the Hon'ble High Court of Chhattisgarh, Rajasthan, Kanpur, Bombay, District Court Delhi these are not binding on this court. No doubt, the counsel for accused has also relied upon the citations of the Hon'ble Supreme Court of India decided in the case of Swapan Kumar Chatterjee VS Central Bureau of Investigation in Crl.Appeal No.15 of 2019 (Arising out of S.L.P. (Crl) No.7748 of 2017) dated 04.01.2019 and in the case of Rajaram Prasad Yadav Vs State of Bihar and Another in (SLP (Crl.) Crl.Appeal No.2400 of 2011 dated 04.07.2013. But the learned counsel for the complainant has relied upon the citation of the Hon'ble Apex Court decided in the case of Varsha Garg Vs The State of Madhya Pradesh and Ors reported in Crl.Appeal No.1021 of 2022 with MA

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No.1144/2022 in SLP (Crl) No.2239 of 2022 dated 08.08.2022, wherein it is held that the power of the court is not constrained by the closure of evidence. Therefore, it is amply clear from the above discussion that the broad powers under Section 311 are to be governed by the requirement of justice. The power must be exercised wherever the court finds that any evidence is essential for the just decision of the case. The statutory provision goes to emphasise that the court is not a hapless bystander in the derailment of justice. Quite to the contrary, the court has a vital role to discharge in ensuring that the cause of discovering truth as an aid in the realization of justice is manifest.

11. Therefore, the complainant relied upon the latest proposition of law laid down by the Hon'ble Apex Court and is binding on this court. Apart from that the complainant specifically contended that the proposed documents are necessary to decide the case and without admitting the said documents in the evidence the official value of the said documents cannot be decided. Moreover, it is on the complainant to prove that the contents of the documents are relevant to decide material facts involved in the case and the accused has ample opportunity to cross examine PW-1 on the said documents to defend their case. In view of these reasons the objections raised on behalf of the accused are not at all sustainable. Hence, the above point is answered in the **Affirmative** and I proceed to pass the following;

**ORDER**

**The application filed on behalf of complainant under Section 311 of Cr.P.C is allowed.**

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**Accordingly, the case is reopened for further  
chief examination of PW-1 to mark the documents  
subject to proof and relevancy as prayed for.**

(Dictated to the stenographer, transcribed by him on computer, corrected and then signed and pronounced by me in the open court on this the 11<sup>th</sup> day of October 2022).

(Parashuram F. Doddamani)  
III Additional Chief Metropolitan Magistrate,  
Bengaluru.