

ORDER ON APPLICATION UNDER SEC.311 OF CRPC.

1. The instant application is filed by Learned Counsel for the accused under Sec.311 of CRPC for recalling of P.W.1 for further cross examination.
2. The Learned APP has filed his statement of objections to the said application.
3. Heard both Counsel.
4. After perusal of the records of the case, the following points would arise for my consideration:
 - 1). Whether the application filed by Learned Counsel for the accused is deserved to be allowed?
 - 2). To what order?
5. My finding to the above points is as follows:

Point No.1: In the affirmative.

Point No.2: As per final order for the following:

REASONS

6. **Point No.1:** In the above said application, learned counsel for the accused has stated that the material portion has not been cross examined and it is necessary to further cross examine P.W.1 for which recalling of him is necessary before this court. Further, if this application is not allowed, the accused will be put to great hardship and

injustice, on the other hand, no hardship or injustice will cause to the prosecution. Therefore, he prays to allow the application for cross examination of P.W.1 further in the interest of justice.

7. Per contra, in the statement of objection to application, the learned APP has denied the application averments in material aspects and contended that the application filed by advocate for accused is not maintainable either under law or on facts and the same is liable to be dismissed. It is further submitted that the learned counsel for the accused has not shown any reasons and this application is filed only to drag the case and accordingly among other grounds he has prayed to reject the application.
8. In view of the rival contentions put forth by both the parties, now, let me see as to whether the application is deserves to be allowed. The application is filed under section 311 of CrPC. Sec.311 of CRPC reads as under: Any court may, at any stage of any enquiry, 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 reexamine any person already examined; and the Court shall summon and examine or recall and reexamine any such person if his evidence appears to it to be essential to the just decision of the case. Sec.311 of CRPC is a provision that it gives the power to Court that if evidence of any person is essential to the just decision of the case, is having power to recall that person. The learned Counsel for the accused

persons in his application has stated the reasons for cross examination. The reasons mentioned in the application are very much important and material and they throw the light upon the case. The very existence of the Courts is for dispensation of justice. Hence for the aforesaid reasons and after perusal of the relevant provision of CRPC application is deserves to be allowed. Accordingly, I answer this point in the affirmative.

9. **Point No.2:** In view of my discussion made supra, I proceed to pass the following:

ORDER

The Application filed by learned Counsel for the accused persons is hereby allowed and recalled P.W.1 for further cross examination.

Office is hereby directed to issue summons to P.W.1 to appear before Court for further cross examination.

(Hanamantarao R.Kulkarni)
Senior Civil Judge and J.M.F.C.,
Basavakalyan.