

**IN THE COURT OF CIVIL JUDGE & J.M.F.C.,
AT SANDUR.**

Present : Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 24th day of September 2025

C.C. No. 80/2018

COMPLAINANT :: Vijay Kumar S/o Sivalingaiah,
Aged about 40 years,
Employee in JSW,
R/o O1-9, Vidya Nagar,
JSW Township, Thoranagallu,
Sandur Taluk, Ballari District.

[By : Sri. K.T.P., Advocate]

/ V E R S U S /

ACCUSED :: K. Rajkumar S/o Nagaraj,
Aged about 42 years,
R/o H. No.82, Ground Floor,
Ist "C" Cross, Dodda Kempaiha Layout,
Raja Rajeswari Nagar,
H.V. Halli, Bengaluru.

[By : Sri. K.R.D., Advocate]

I.A.

Applicant : K. Rajkumar S/o Nagaraj
(Accused)

V/s

Opponent : Vijay Kumar S/o Sivalingaiah
(Complainant)

ORDER ON I.A. FILED U/S.311 OF CR.P.C. BY THE ACCUSED

1. The learned Counsel for accused filed this application U/s.311 of Cr.P.C., seeking to recall PW1 for further cross examination. The application is filed on 14.08.2025 when the matter was posted for recording of statement of accused under Section 313 of Cr.P.C.

2. It is submitted that, there are certain questions which have to be put to PW1 which are just and reasonable. Those questions determines the root of the defence and essential for just decision of the case. If the application is not allowed much hardship and injury will be cause to the accused. Amongst other grounds, the accused prays to allow the application.

3. The learned counsel for the complainant files objections contending that the accused had filed false and

frivolous application to delay the proceedings. The case pertains to 2018 and 7 years has lapsed. The application is filed at belated stage. The learned counsel for accused already cross-examined the witness in length. The accused intend to fill up the lacunas and create ambiguity in the case of the complainant. The accused had earlier filed application under the same provision, but once again came up with application with intention to drag on the matter. Amongst other grounds, he prayed to reject the application.

4. Perused the application and the records. Heard the learned counsel for accused and complainant.

5. The ordersheet reveals that the learned counsel for accused cross examined PW1 on three occasions by deferring cross examination. On 13.11.2019, the learned counsel for accused fully cross-examined PW1. Thereafter, he came up with the application under section 311 of Cr.P.C. with the same contents as stated in the present application. Previously, PW1 was recalled on the strength that certain questions were not put to

PW1. On the same ground, the accused again seeks to recall PW1. This matter is of 2018, and nearly 7 years have lapsed.

6. The Hon'ble High Court of Gujarat in *Imran Karimbhai Madam v. State of Gujarat*, [2023 Livelaw (Guj) 24], has held that the witness cannot be recalled merely because party failed to put certain important questions during cross examination. The witness cannot be recalled merely for asking. Therefore, there are no grounds to recall PW1. Hence, the application deserves to be dismissed. Hence, I pass the following:-

ORDER

I.A. filed by the accused U/s.311 of
Cr.P.C., is hereby dismissed.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 24th day of September 2025)

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.