

**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: 2nd day of July, 2026

C.C. No. 571/2025

COMPLAINANT :: The State by PSI Thoranagallu
Police Station.

[By : Assistant Public Prosecutor]

/ V E R S U S /

ACCUSED :: Chandra Naik S/o Sanna Setu Naik,
Age: 45 years, Occ: Driver,
R/o Belagal Thanda,
Ballari Taluk, Ballari District.

[By : Sri. A.V.K., Advocate]

I.A.

Applicant : Chandra Naik S/o Sanna Setu Naik
(Accused)

V/s

Opponent : The State by PSI Thoranagallu
Police Station.
(Complainant)

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

1. The learned counsel for accused has filed this application U/s.311 of Cr.P.C., seeking to recall CW1 / PW1. The application is filed on 12.02.2026, when the matter was posted for examining other prosecution witnesses.

2. It is stated that, the prosecution examined CW1 as PW1. On the said date, the learned counsel for accused was not present before the court since he was engaged in the court of Hon'ble Prl. District & Sessions Judge, Ballari. Due to his absence, the cross-examination of PW1 was taken as nil. The cross-examination of PW1 is very essential to prove the defence of the accused. Therefore, he sought to recall PW1 for cross-examination.

3. The learned A.P.P. filed objections contending that the records *prima-facie* disclose the commission of offence by the accused punishable under Section 279 and 338 of IPC. Only to procrastinate the proceedings, the accused did not cross-examine

PW1. If the application is allowed hardship will be caused to the witness. On these grounds, he prays to dismiss the application on cost.

4. Heard the learned A.P.P. and learned counsel for accused. Perused the records.

5. On going through the records and the order sheet, it appears that charge sheet is filed against accused for the offences punishable under Section 279 and 338 of IPC. This court took cognizance and issued summons to accused. The accused appeared and obtained bail. He submitted himself for trial. The prosecution till now has examined only one witness i.e., CW1. When the prosecution examined CW1 as PW1 the proxy counsel appearing for the accused had prayed for time to cross-examine the witness which was not granted by this court since no grounds were forthcoming to grant adjournment. If this witness is asked to appear before the court due to fault on the part of the defence for not cross-examining the witness when he was present in the court,

it will cause unnecessary hardship to the witness. The reasons assigned in the application are no grounds to recall the witness. But, it is contended that the accused has good grounds to succeed and therefore, it is necessary to cross-examine PW1. This court is of the opinion that if necessary penalty is imposed on the accused, no hardship will be caused to the prosecution. Therefore, in the interest of justice and equity, the application deserves to be allowed though subject to payment of cost by accused. On these observations, I proceed to pass the following:-

ORDER

I.A. filed by the learned counsel for accused U/s.311 of Cr.P.C., is hereby allowed on cost of Rs.200/- payable to PW1.

Consequently, PW1 is recalled.

Issue summons to PW1 for his appearance,
to subject himself for cross-examination.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 2nd day of July arch 2026)

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