

**ORDER ON THE APPLICATION FILED BY THE
ACCUSED UNDER SECTION 231(2) OF Cr.P.C.**

The counsel for the accused has filed the instant application to defer the cross-examination of CW.1 until the completion of CW.2 to 6, who are interested witnesses in the case. It is the contention of the accused that CW.2 to 6 are relatives of CW.1 and are interested witnesses. If the counsel for the accused cross examines CW.1 before the completion of chief examination of CW.2 to 6, the defence of accused will be revealed and the other witnesses will be alerted and they will improve their evidence. Hence, it is just and essential to defer the cross examination of CW.1 till the completion of chief examination of CW.2 to 6.

2. The learned Public Prosecutor has resisted the said application by filing objections. It is contended that, CW.2 to 6 are not the interested witnesses and they are circumstantial witnesses. The accused cannot seek to defer the cross-examination of CW.1 until the completion of chief examination of CW.2 to 6. No grounds made out by the accused to defer the cross examination of CW.1. Hence, the prosecution has sought for dismissal of the application filed by the accused U/Sec.231(2) of Cr.P.C.

3. Heard arguments of both the parties. Perused the materials available on record. The following points arise for

my consideration:

- 1) Whether the application filed by the accused u/s.231(2) of Cr.P.C deserves to be allowed ?
 - 2) What order?
4. My answers to the above points are as under:

Point No.1: In the Negative.

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

REASONS

5. **POINT No.1:-** The instant application has been filed by the accused to defer the cross-examination of CW.1 until the completion of chief examination of CW.2 to 6. It is the contention of the accused that CW.2 to 6 are relatives of CW.1 and are interested witnesses. If the counsel for the accused cross examines CW.1 before the completion of chief examination of CW.2 to 6, the defence of accused will be revealed and the other witnesses will be alerted and they will improve their evidence. Hence, it just and essential to defer the cross examination of CW.1 till the completion of chief examination of CW.2 to 6.

6. It is pertinent to mention here that, as per section 231(2) of Cr.P.C, it is the discretion of the court to defer the cross-examination of the witnesses. The accused is not

entitled as of right to postponement of the cross examination of the witnesses. The accused has no right to ask for deferring the cross examination of CW.1, untill the completion of chief examination of CW.2 to 6. It is pertinent to mention here that it is not practically possible to cross examine all the witnesses i.e., CW.1 to 6 at a stretch on the same day. Further, it is the contention of the prosecution that CW.2 to 6 are not the interested witnesses, they are circumstantial witnesses. The allegations made against the accused are that they committed the murder of the deceased. CW.1 is the first informant. No cogent grounds are made out by the accused to defer the cross examination of CW.1 untill the chief examination of CW.2 to 6 is completed. Accordingly, this point is answered in the **Negative.**

7. **POINT NO.2-** In view of the above discussion, I proceed to pass the following:

ORDER

The application filed by the accused u/s 231(2) of Cr.P.C is hereby rejected.

VI ADJ