

KACB010019772024



**IN THE COURT OF THE I ADDITIONAL DISTRICT &
SESSIONS JUDGE AT CHIKKABALLAPURA,**

Dated this the 16th day of March, 2026.

PRESENT :

Sri. Kantharaju S.V. B.A. LL.B.

I Additional District & Sessions Judge,
Chikkaballapura

S.C.No.100/2024

Complainant:

The State
Rep. by Gowribidanur Rural Police
Station,

**(Rep. by Learned Public Prosecutor,
Chikkaballapura)**

Versus

Accused :

Manjunatha and others.

**(Rep. by Sri. M. Papi Reddy,
Advocate)**

**:ORDERS ON APPLICATION UNDER SECTION 60(C) OF
BHARATIYA SAKSHYA ADHINIYAM, 2023:**

This application under Section 60(C) of Bharatiya Sakshya Adhiniyam, 2023, filed by the learned Public Prosecutor praying to permit her marking of true copy of the

Mahazar through prosecution witnesses subject to proof and relevancy, in the interest of justice.

2. It is contended that, when the matter was posted for recording of the evidence on behalf of the prosecution for the purpose of proving the material facts, certain documents collected during investigation are required to be marked through competent witness. One such vital document is the original mahazar prepared by the Investigation Officer during the course of Investigation. Further contended that, prior to filing of the charge sheet, the Investigating Officer had submitted the original Mahazar along with the PF before the Committal Court. However, despite committal of the case, the said original mahazar has not been transmitted to this court. Further, this Court has issued repeated reminder seeking transmission of the original Mahazar from the trial court. The same has not been received till date for reasons beyond the control of the Prosecution. Non-availability of the original document is causing serious prejudice to the prosecution case. The marking of the mahazar is essential for proper appreciation of the prosecution evidence and for establishing the material circumstances of the case. The absence of said document would hamper the just and effective adjudication of the matter before this Court. The photo copy of the said mahazar is already available in the case record as original document is presently unavailable, despite due efforts, the

said copy may kindly be treated as secondary evidence in accordance with law.

3. The learned counsel for the accused persons submitted that no objection to said application.

4. Heard arguments from both sides.

5. The point for consideration is;

"Whether the learned Public Prosecutor has made out ground to allow the application as sought for?"

6. The above point is answered in the **Affirmative**, for the following;

:REASONS:

7. I have perused the records and the charge sheet allegations, the accused persons have committed the offences punishable under Sections 189(2), 189(4), 191(2), 191(3) 115(2), 118(1), 352, 351(2), 351(3), 109(1), 103(2) read with Section 190 of Bharathiya Nyaya Sanhita, 2023. The matter is at the stage of recording of evidence of prosecution witnesses. Admittedly, PW.1 to PW.4 and PW.6 were examined and PW.5 partly examined. During the course of recording of evidence of PW.5, the prosecution has noticed that the original Spot Mahazar is not found place. In spite of due efforts, same was not traced. However, copy of the same

available on record. In order to prove the case of the prosecution, the marking of document is very much essential.

8. Section 60(c) of BSA, 2023 defined as follows:

“60. Cases in which secondary evidence relating to documents may be given.

Secondary evidence may be given of the existence, condition, or contents of a document in the following cases, namely:

(a) when the original is shown or appears to be in the possession or power-

(i) of the person against whom the document is sought to be proved; or

(ii) of any person out of reach of, or not subject to, the process of the Court; or

(iii) of any person legally bound to produce it, and when, after the notice mentioned in section 64 such person does not produce it;

(b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;

(c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(d) when the original is of such a nature as not to be easily movable;

(e) when the original is a public document within the meaning of section 74;

(f) when the original is a document of which a certified copy is permitted by this Adhiniyam, or by any other law in force in India to be given in evidence;

(g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.Explanation. - For the purposes of-

(i) clauses (a), (c) and (d), any secondary evidence of the contents of the document is admissible;

(ii) clause (b), the written admission is admissible;

(iii) clause (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible;

(iv) clause (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such document.

9. It is made it clear that, as per clause Section 60 (c) of BSA, 2023 when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time. Same can be considered in accordance with law. Therefore, I found force in the argument of the learned Public Prosecutor the production and marking of the document is very much essential to just decision of the case, which is available on record, since the learned defense counsel have submitted no objection for marking of the same. Hence, I proceed to pass the following:

ORDER

The application under Section 60(c) of BSA, 2023 filed by the Learned Public Prosecutor is **allowed**.

Further, the true copy of the Spot mahazar dated 18.08.2024 is considered as Secondary evidence and permitted to mark in the prosecution witnesses.

Re-issue SS to PW.5 Smt.
Lakshmiddevamma, returnable by
23.03.2026.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the Open court, on this the **16th day of March, 2026.**)

(Kantharaju S.V.)

I Additional District & Sessions Judge
Chikkaballapura.