

CC NO: 187/2020.

ORDERS ON APPLICATION FILED UNDER SECTION
311 OF Cr.P.C.

The counsel for accused filed application under section 311 of Cr.P.C seeking to re open the stage for defense evidence as the defense evidence was taken as nil. The counsel for accused could not lead defense evidence. As the accused was not present to conduct the defense evidence of the accused. The defense evidence of the accused is very essential for the proper adjudication of the case. Hence prays to allow the application.

On the other hand the learned counsel for complainant opposed the application as not maintainable and the same is filed at a very belated stage. Further, the contended that the complainant has filed the above complaint against the accused for offence punishable under section 138 of NI Act and the evidence of complainant side was completed and after completion of complainant side evidence, this Hon'ble Court has given a sufficient opportunity to lead evidence on the side of accused. But, the accused has not utilized the opportunity given by this Hon'ble Court and then this Hon'ble Court has rightly closed the evidence of accused side and now the case is stands posted for arguments on merits at this juncture the accuse has brought this false application just to protract the proceedings and also harass the complainant and such the application is liable to be dismissed. Hence, prays to reject the application.

Heard the counsel and the learned counsel for complainant for state.

The following point arise for my consideration.

Point NO.1: Whether the application filed under section 311 of Cr.P.C deserves to be allowed ?

Point NO 2: What order ?

I answer the point NO.1 as the following :-

Point NO.1: In the affirmative

Point NO.2 : As per the final order

REASON

Point No. 1: The complainant has filed the complain Under Section 200 of Cr.P.C R/w Section 138 of NI Act against the accused for the offence punishable Under Section 138 of NI Act. Now, the case is posted for arguments. Such being the scenario now the accused has stated that the counsel for accused could not defense evidence. As the accused was not present to conduct the defense evidence of the accused. The defense evidence of the accused is very essential for the proper adjudication of the case.

The conspicuous reading of section 311 of Cr.P.C would show that widest of the power have been invested with the court if the court is of the opinion that the evidence of any person appears to be essential to the just decision of the case. In this scenario this court is of the opinion in the interest of justice an opportunity shall be accommodated to be counsel or accused adduce his defense evidence. Hence, I answer **Point No. 1 In the affirmative.**

Point No:2 : As per the final order.

ORDER

Application filed under section 311 of

Cr.P.C is allowed on the cost of Rs. 300/-.

For defense evidence.

Call on: 24.08.2023

12.07.2023.

**Addl civil judge and JMFC
Shidlaghatta.**