

ORDER ON APPLICATION U/S.311 of CR.P.C.

This application is filed by the accused No.1 seeking to recall the order dated 12.06.2025 and permit him to tender his evidence. It is contested by the learned Spl. Public Prosecutor. Now the following points would arise for my consideration:

1. Whether the accused No.1 has shown sufficient cause to recall the impugned order?

2. What order?

2. I have heard arguments of Sri. NTR advocate for the accused and learned Spl. Public Prosecutor for the State. Perused the case file. My findings to the above points are as under :-

Point No.1 – In the affirmative,

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

REASONS

3. **Point No.1:-** In this case both these accused have been charge-sheeted for the offence punishable U/Sec.13(1)(e) R/W/S.13(2) of PC Act and as could be seen from the order sheet proceedings from the year 2016 and even now this court is not able to conclude the trial for the reasons reflected in the very order sheet. Instead of reproducing what this court observed on previous application filed by this accused and order passed thereon on 03.07.2025, I would say that in continuation of the reasons recorded therein, I can easily say that on one or other cause the accused are trying to keep alive the case for

the reasons best known to them and this time accused No.1 submits that, on 28.07.2025 he had been to the Office of Lokayuktha, Bengaluru to attend the D.E.No.1/2023 pending against him in relation to this very allegation, so he seeks an excuse by relying on the decision reported in AIR 021 SC 2441. In tune with the application Sri NTR advocate also canvassed that one more opportunity be granted to the accused No.1 to submit his affidavit and to examine other witnesses if any.

4. Per contra opposing the said application, Spl. Public Prosecutor canvassed that though this court had given more than sufficient time, the said accused are unnecessarily putting hurdle in the trial so as to cause delay as much as possible. Thus he prayed to reject the application.

5. On verifying the case file certainly one cannot reject the submission of the learned Spl. Public Prosecutor. As rightly pointed out by him though this court clarified in the order dated 03.07.2025 by imposing cost of Rs.5,000/- and providing opportunity to the accused to file their affidavits and of their witnesses, on or before 28.07.2025. It appears that intentionally this accused No.1 got fixed his case in the Office of Lokayuktha, Bengaluru on the very same day so that they can get one more adjournment in that way. When the trial in this case was already fixed on 28.07.2025 one cannot understand how departmental enquiry could have been fixed on the very same day without the knowledge and concurrence of this accused. According to me it is only a ruse to put off the case as much as

possible. The ratio laid down in Seenivasagan's case cannot be made squarely applicable to the case in hand, when there is an intentional negligence or default on a party.

6. Moreover showing undue sympathy would lead to bringing disrepute to the judicial system. Therefore though there is no ground or reason to to grant any more time to the accused, yet in order to avoid their intention to prolong the litigation by filing application after application, considering the cost imposed previously, I am inclined to grant one more chance to them to adhere to their words, hence I answer this point in the affirmative.

7. Point No.2:- In view of the above finding, I proceed to make following:

ORDER

Application filed U/Sec.311 of Cr.P.C. is allowed on further cost of Rs.20,000/- payable to DLSA, Chitradurga.

The accused No.1 shall pay cost and produce voucher for the same and file affidavits/additional affidavits, if any of himself and his witnesses on or before 15.09.2025.

It is again clarified that if the accused does not avail this opportunity, benefit of this order will not be available to them.

Prl. District & Sessions Judge,
Chitradurga.