

**Order on application U/S. 311 r/w. S. 91 of Cr.P.C filed by the accused**

The complainant police have filed the charge sheet against the accused persons alleging the commission of the offences punishable under section 324, 504, 114 and 307 r/w 34 of IPC.

2. The accused have filed this application to re-call PW.1 to 10 for their further cross examination stating that the accused have one C.D. with them, consisting of audio and video material relating to alleged incident of this case and confronting the same to PW.1 to 10 is very much necessary to elicit the truth from the said witnesses in their further cross examination. That due to oversight and bonafide mistake the defense side was unable to confront the said to PW.1 to PW.10 in their cross examination earlier. It is submitted that if the PW.1 to 10 are not recalled, the accused would be put to greater hardship and injury and on the other hand, if PW.1 to 10 are recalled, it will not cause any prejudice to the prosecution. Accordingly, the accused have prayed to allow this application.

3. The learned Public Prosecutor has filed her objections stating that defense side have already been cross examined PW.1 to 10 extensively. That matter on hand pertaining to the year 2013 and that the accused have unnecessarily filed this application in order prolong the trial. That the accused side have not furnished any documents to show the authenticity of the said C.D., before the court That the accused side have not stated valid grounds for re-calling the witness and to confront the C.D. That there are no reasons to recall the PW.1 to 10 and accordingly, she has sought for rejection of the application.

4. For disposal of this application the following, the points arise for consideration:

1. Whether the accused have made out sufficient grounds to allow their application filed U/S.311 r/w S.91 of Cr.P.C. ?

2. What order ?

5. Having heard the arguments on both sides, my findings to the above points are as under.

Point No.1: In the Negative

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

**REASONS**

6. **Point No.1:** It is contended by the counsel for the accused that it is necessary to re-call the PW.1 to 10 for their further cross examination stating that the accused have one C.D. with them, consisting of audio and video material relating to alleged incident of this case and confronting the same to PW.1 and 10 is very much necessary to elicit the truth from the mouth of said witnesses. However, it is pertinent to note here that the matter on hand is pertaining to the year-2013 and it is listed in the list of 25 oldest cases. Further, the evidence on record shows that the accused side have already been cross examined PW.1 to 10 extensively. Moreover, the accused side have not produced any materials to show the genuineness of the C.D., in question. Therefore, the accused side have not made out any valid grounds so as to allow their application filed under section 311 r/w s.91 of Cr.P.C. Accordingly, I answered the Point No.1 is answered in the ***Negative.***

7. In the light of the above discussions, I proceed to pass the following:

**ORDER**

The application under section 311 r/w 91 of Cr.P.C., filed by the accused is hereby dismissed.

Sd/-

***ManjunathSangreshi***  
***II Addl. District & Sessions Judge***  
***Chikkamagaluru.***