

Accused present, complainant absent.

**ORDERS ON APPLICATION FILED
UNDER SECTION 311 AND 91 OF
Cr.P.C**

The present applications are filed by the complainant, at the stage when the case was set-down for cross-examination of PW1, seeking an order of this court to recall the PW1 for further chief-examination and permission to produce documents.

2. Since above two applications are inter connected each other and in order to save court time, they have taken together for disposal through this common orders.

3. It is stated in the applications that earlier, the complainant was unable to produce the RTC and crop certificate due to unavoidable circumstances and recently he came to know that he has not produced the document. Therefore, those documents have to be exhibited on behalf of the complainant, as those are necessary to establish his case. Hence, prayed for allow the applications as sought for.

4. The above applications have been resisted by the learned defence counsel by filing objection statements. Wherein, it is contended that applications are not maintainable, as those applications are frivolous and filed at belated stage

to cause wrongful loss to the accused. It is further contended that the complainant has not made out proper reasons and reasons stated in the applications are not genuine. Therefore, if the applications are allowed, hardship will be caused to the accused. Hence, prayed for reject the applications with costs.

5. Having heard both side, the court scrutinized the applications, objection statements and other materials made available on record.

6. The present complaint is filed by the complainant against the accused for the offence punishable under section 138 of N.I Act. It can be seen from the order sheet that when the case was set-down for cross-examination of PW1, present applications are filed to recall the complainant for further examination and to produce the documents. Complainant has contended that the documents annexed to the applications are necessary to prove his case. Therefore, those documents needs to be marked on behalf of the complainant. Hence, the PW1 has to be recalled for further examination.

7. Admittedly, this being the trial court fullest opportunities has to be given to the both parties to establish their respective case. If the applications are rejected, the complainant will be prevented from establishing his case.

Further, there is no justifiable grounds stated in the objection statements to reject the applications. On the other hand, if the applications are allowed, no prejudice will be caused to the accused, as still cross-examination of PW1 is commenced. Hence, this court is of the opinion that the complainant has made out to allow the applications. Accordingly, this court proceed to following:-

ORDER

The applications filed by the complainant under section 311 and 91 of Cr.P.C, are hereby allowed on cost of Rs.100/- each.

Consequently, the PW1 is hereby recalled for further chief-examination and the documents annexed to the application are taken on record.

Sd/-

P.C.J & J.M.F.C; Mudigere.

For appearance of PW1 for further chief-examination by 19.10.2023.

Sd/-

P.C.J & J.M.F.C; Mudigere.