

Accused present.

**ORDER ON APPLICATION UNDER SECTION
311 & 91 OF CR.P.C.**

The accused filed the application under section 91 of Cr.P.C. to permit him to produce the documents and filed application U/Sec 311 of Cr.P.C.

for recalling DW-1 and permit him to mark the documents.

2. On the other hand the complainant has filed objections to both applications separately.

3. Heard on applications by both side. Perused the materials on record.

4. It is submitted by the accused that the complainant has filed a private complaint against the accused for the offences punishable under section 138 of N.I. Act alleging that the accused has issued Ex.P.1 in favour of the complainant towards the amount payable to the complainant.

5. Accused further stated that case is posted for defense evidence. The case of the accused that there is no transaction between the above complainant and accused, and the accused

was not issued the above said cheque to the complainant. In order to prove the case of the accused is producing the documents. In order to mark the said documents the recall of D.W.1 is very much necessary. Hence accused prays to allow the applications.

6. On the other hand complainant filed objection to the applications, wherein stated that the application filed by the accused is not maintainable either in facts or on the law and on the probabilities of the subject matter of the complaint. All the allegations in application are denied and the same are all false and without any basis. Complainant further stated that the present application is filed just to drag on the proceeding and all the documents which is produced along with the application are concocted and created for the purpose of filing this application. Hence, complainant prays to dismiss the application with cost.

7. It is the general principle that widest opportunity should be given to the parties to prove their case in the trial court. If the applications are allowed no hardship will be

caused to the complainant. He has every right to cross examine the said witness on the said documents. If application is not allowed accused will be put into great hardship and inconvenience. On the other hand no prejudice will be caused to the complainant. Hence, I proceed to pass the following:

ORDER

Application filed by the accused under section 91 and section 311 of Cr.P.C. is hereby allowed on cost of Rs.200/- each.

DW-1 recalled case posted for further chief of DW-1.

Call on 03/10/2024

**(JAYAPRAKASH V)
SENIOR CIVIL JUDGE AND JMFC.
MUDIGERE.**