

ORDER ON IA No.II

This application has filed by the Learned APP U/Sec. 242 and 292 of Cr.P.C. Seeking order of the court to produce document which is FSL report dated 31.12.2015 in support the evidence adduced by the CW.11 in his chief examination dated 23.10.2024. Due to bonafide reasons the alleged document left over to produce along with the charge sheet and remained in the IO record. More over the CW.11 has deposed in his chief examination that he has no any trouble to produce the said document before the court. Thus, prays to permission of the court to produce alleged document and to mark the same on behalf of the prosecution side. The said document is very much necessary to prove the guilt of the accused. If this application is allowed no hardship will be caused to the other side. Thus, prays to allow the application.

2. The learned counsel for accused present and copy served on him and he receipts his signature on the IA No.II that he has no objection to allow the IA.

3. Heard from both side.

4. Before considering the application filed by the learned APP this court is of the opinion is to refer the Sec. 242 of Cr.P.C for the better understanding.

**242. Evidence for prosecution: (1) If
the accused refused to plead or does no**

plead, or claims to be tried or the magistrate does not convict the accused under Section 241, the magistrate shall fix a date for the examination of witnesses.

Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.

(2) The Magistrate may , on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take all such evidence as any be produced in support of the prosecution.

Provided that the Magistrate may permit the cross examination of any witness to be deffered until any other witness or witness have been examined or recall any witness for further cross examination.

5. Upon perusal of the application the prosecution has made out sufficient grounds to allow the application. Since the cross examination of CW.11 is not completed and the offence alleged against the accused are P/U/Sec.420,468 of IPC., Hence, the alleged document annexed with application is finds it necessary to allow. The application filed by the

prosecution side in order to give fullest opportunity to the both side.

6. In this context, it is also relevant to note that a duty is cast on the Public Prosecutor conducting the trial to produce all evidence relevant to the determination of the guilt or innocence of the accused. Therefore, it goes without saying that even the Public Prosecutor conducting the trial owes a duty to produce before the court all evidence in support of the prosecution. The Public Prosecutor therefore cannot withhold any relevant piece of evidence which he finds it necessary for fair trial of the case. That being the position of law and the mandate contained in section 242(3) of Cr.P.C., I do not have any hesitation to hold that the criminal court conducting the trial is bound to receive all the evidence produced by the prosecution irrespective of the fact whether the said evidence or documents were part of the charge-sheet placed before the court or not.

7. In view of the same I pass the following order;

ORDER

IA No.II filed by the learned APP U/Sec. 242

and 292 of Cr.P.C. is hereby allowed.

For further chief of CW.11.

I Addl. Civil Judge & JMFC., ,

Channagiri.