

ORDERS ON I.A.III

The learned APP filed present application U/Sec. 311 of Cr.P.C., seeking the order of the court to call the IO by name Madhu P.B. who submitted the FSL report dated 21-11-2022 to the court in the present case as additional witness. The said FSL report is necessary and material document to prove the charges alleged against the accused person U/Sec.420 and 468 of I.P.C. , by the prosecution and to mark the said FSL report from prosecution side as exhibits. Thus pray to allow the application . As the alleged additional witness being IO is necessary witness in the present case. Thus prays to issuance of the witness summons to the Madhu P.B, the then PSI of Channagiri P.S. by allowing this application.

2.On the other hand, the learned counsel for accused despite providing

sufficient opportunity has not filed any objection to the application.

3. Heard from the learned APP . In support of the application 1/APP relied upon a case law “Appex crime 2015(3) page No.183 and High court in Criminal Apeal No.1445/2007.

4. Before discussing grounds of the application on merit it deems it proper to take note of the provisions of law contained under Section 311 of Cr.P.C.

“ 311 Power to summon material witness, or examine person present :- Any court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined, and the Court shall summon and examine or recall and reexamine any such person if his evidence appears to it to be essential to the just decision of the case.”

5. This application is filed at the stage of evidence of prosecution witnesses.

6. Hence, if this application is allowed no injustice will be caused to the other side, still examination of the prosecution witnesses not yet completed. Though 1/APP relied upon a case law “Appex crime 2015(3) page No.183 and High court in Criminal Appeal No.1445/2007. But has not stated parties

name as well which hon'ble high court the said cases related to. Thus, this court not relied upon those decisions to decide the application at hand. However, It is trite law that an additional witness summoned as per section 311 of the Cr.P.C can be examined as a prosecution witness. If the court finds that such a person ought to have been examined as a prosecution witness who as submitted the report after filing charge sheet as witness. On the said ground alone the right of the prosecution side i.e., examination of witness namely Madhu P.B cannot be curbed. Therefore, I proceed to pass the following:

ORDER

The application filed U/s.311 of Cr.P.C. is hereby allowed.

Office is hereby directed to issue witness summons to the Madhu P.B, PSI, as additional witness from prosecution side who submitted FSL Report to the court as prayed in the I.A.No. 3.

Call on: 27-10-2025.

**I Addl CIVIL JUDGE & J.M.F.C.,
CHANNAGIRI.**