

13.12.2022

ORDERS ON APPLICATION FILED BY ACCUSED
UNDER SECTION 315 OF Cr.P.C

This application is filed by the advocate for the accused under Section 315 of Cr.P.C to summon the witness by name Raman Mittal and direct him to produce the agreement between complainant, accused and said witness.

2. Advocate for the complainant filed objections contending that the provision quoted by the accused is wrong and the application under Section 315 of Cr.P.C for summoning the witness is not maintainable. Further he contended that there is no any such tripartite agreement between complainant, accused and proposed witness. Further he contended that already defence side evidence is closed and matter was posted for arguments, at that stage the present application is filed only to drag the case. Hence, there is no any grounds to allow the application. Thus, he prayed to reject the application.

3. Heard the arguments of both side and perused the material placed on record.

4. The following points arise for my consideration.

1) *Whether the application filed by the accused deserves to be allowed?*

2) *What order?*

5. My answers to the above points are as under:

Point No. 1 : In the negative

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

: R E A S O N S :

6. **Point No.1:** The present complaint is filed for the offence punishable under Section 138 of N.I. Act. The present application is filed when the case is pending for arguments. On careful perusal of the application filed by the accused, it reveals that he filed the present application to summon the witness by name Raman Mittal who is the Managing Director of International Tractor Sonalica and direct him to produce the tripartite agreement between complainant, said witness and accused.

7. On careful perusal of the complaint averments and defence of the accused, it reveals that there is no such pleadings or case made out that there is tripartite agreement between those 3 persons. Moreover, the complainant in his objections has clearly stated that there is no any such tripartite agreement between those 3 persons, hence, there is

no question of summoning said document and witness. Moreover, said agreement is not relevant to decide the present case, because the transaction of the present case is only between accused and complainant. Thus, the proposed document and witness are not necessary to decide the present case. Thus, the application filed by the accused deserves to be dismissed.

8. Moreover, the provision quoted by the applicant is also wrong. Section 315 of Cr.P.C says that accused is competent witness for his defence. But quoting of wrong provision is not a bar to do the justice. But in this case the application filed by the accused is devoid of merits and there is no valid ground to allow application. Further it reveals that already both side evidence is concluded and matter is pending for arguments, at that stage the present application is filed. Hence, that shows only to drag the case the present application is filed. Thus, same is liable to be rejected. Thus, I answer **point No.1 in the negative.**

9. **Point No. 2:** In view of the aforesaid reasons, I proceed to pass the following:

ORDER

*Application filed by the accused under
Section 315 of Cr.P.C is hereby rejected.*

For arguments call on 20.12.2022.

III Addl. Sr.C.J. & CJM., Dharwad