

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC
KALAGHATAGI
PRESENT

SHRI. RAVINDRA L. HONOLE, B.A., LL.B (Spl)
SENIOR CIVIL JUDGE & JMFC, KALAGHATAGI

DATED THIS 28TH DAY OF JUNE 2025
C.C. No.113/2021

Complainant:

State: Kalaghatagi P.S.

Vs.

Accused:

Sadanand Nesargi

ORDERS ON APPLICATION FILED U/SEC. 311 OF Cr.P.C.

Learned counsel for accused No.1 has filed this application for recall of CW.2 and 3 for cross examination. It is submitted that on the date fixed for evidence of CW.2 and 3 on 28.04.2025 their counsel is out of station and could not cross examine witnesses. Therefore, it is necessary to recall the PW.2 and 3. The absence is not intentional or deliberate. For effective adjudication of the matter it is necessary to recall PW.2 and 3. If the application is allowed no loss or injustice would be caused to the other side. Hence, prays for allowing the application.

2. Learned APP filed objections to the application denying the contents of application. It is submitted that learned counsel for accused No.1 was not present on the date of examination of witnesses. No grounds to allow the application to recall the witnesses. The application is filed to kill the time of the court. Therefore, prays for rejection of application.

3. Heard both side.

4. The following point arise for my consideration:

1. Whether the accused has made out grounds for recall of CW.2 and 3 for cross examination?

5. My answer to the above point is in the affirmative for the following...

REASONS

6. **Point No.1:** The Kalaghatagi police have registered case against the accused for the offences punishable u/sec. 120(B), 406, 409, 420 r/w. 34 of IPC . The matter is posted for evidence of prosecution witnesses. At that time this application has been filed. It is contended that at the time of

evidence learned counsel for accused No.1 was absent due to unavoidable circumstance and the absence was not intentional or deliberate. On going through the order sheet reveals that on the date of examination of CW.2 and 3 learned counsel for accused No.1 was not present. There was no cross examination on the part of accused No.1. If the application is not allowed the right of accused for will be defeated. On the other hand, the application is allowed no hardship or prejudice would be caused to the other side.

7. The grounds stated in the application are sufficient to recall the witnesses. Accordingly, I have answered point No.1 in the affirmative.

ORDER

The application filed by accused No.1 u/sec. 311 of Cr.P.C. is hereby allowed.

Sr. Civil Judge & JMFC.,
Kalaghatagi.

