

KAHS010024052023



**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT  
HASSAN**

**PRESENT: Sri. Ananda, B.A.L., LL.B., LL.M.  
III Additional District and Sessions  
Judge, Hassan.**

**Dated this 03<sup>rd</sup> day of November, 2025**

**Spl. Case No.244/2023**

**Complainant :**

State by

Hassan Women Police Station

**(By Public Prosecutor)**

**V/s**

**Accused :**

Shivananda Y.S. and others.

**(By Sri. A.H.B., Advocate)**

**ORDER ON APPLICATION FILED UNDER SEC.231(2) OF  
Cr.P.C.,**

Counsel for Accused No.1 to 4 has filed the present application under Section 231(2) of the Code of Criminal Procedure, 1973, seeking to direct the prosecution to lead the

chief examination of C.W-1 to 4 and permit him to cross examine them on a single day or at a stretch in the ends of justice and equity.

**2.** It is averred in the application that, now the case is at the stage of recording of prosecution witnesses evidence. C.W-1 is the daughter, C.W-2 is the father of C.W-1, C.W-3 is the brother of C.W-1, and C.W-4 is the mother of C.W-1. Hence, C.W's 1 to 4 are interested witnesses as they all belong to a single family. After the completion of the chief examination of C.W-1, if C.W-1 is cross-examined by the defence counsel and any points favourable to the accused are elicited during such cross-examination, there is every possibility that the remaining witnesses may be cautioned or influenced. As such, it would cause serious harm and injustice to the accused. Therefore, if the chief examination of C.W's 1 to 4 is recorded and they are permitted to be cross-examined on the same day or continuously at a stretch, no injustice would be caused to either party. Hence prays to allow the application.

**3.** The Learned Public Prosecutor has filed objections to the application filed under Section 231(2) of the Code of Criminal Procedure, contending that the contention made by the petitioners

in the above application that, prima facie the accused have not committed any offence, is not tenable under law. Serious charges have been framed against the accused under Sections 498(A), 323, 324, 354, 307, 109, 504, 506, 114 read with Section 34 of the Indian Penal Code. As the witnesses are required tender their evidence against the injustice alleged to have been committed against them and it may not be practically possible to conduct the cross-examination of all the witnesses on the same day. Hence, the application filed by the petitioner is liable to be rejected. It is further submitted that C.W-1 to C.W-4 are closely related to each other and belong to the same family. Therefore, they are interested witnesses and are likely to give supporting evidence regarding the facts known to them. For this reason, the application deserves to be dismissed. Conducting the cross-examination of all witnesses together on a single day may cause inconvenience and may also affect the progress of other pending cases. Since it is difficult to conduct the cross-examination of all witnesses in one sitting, it is humbly prayed that the petitioner's application be dismissed. It is also submitted that the early disposal of this case is highly

essential and therefore, at this stage, the application filed by the petitioner may kindly be rejected in the interest of justice.

4. Heard the arguments from both the counsels. Perused the case records and relevant documents.

5. The following points would arise for consideration:

1. *Whether Accused persons have made out ground to defer the cross-examination of C.W.1 to 4, as prayed for?*

2. *What order?*

6. For the reasons to be stated hereinafter, I answer the above points as follows:

*Point No.1 :- In the **affirmative**,*

*Point no.2 :- As per final order, for the following:-*

### **::REASONS::**

7. **Point No.1:-** The case on hand arises out of Crime No. 97/2017 registered by the Women Police Station, Hassan, against the accused persons, for the offence punishable under Sections 498(A), 323, 324, 354, 307, 109, 504, 506, 114 read with Section 34 of the Indian Penal Code, 1860. After completion of the investigation, the respondent police have filed the charge sheet

against accused persons. The case is now at the stage of recording prosecution evidence. In the course of trial, an application has been filed by the learned counsel for the accused No. 1 to 4 under Section 231(2) of Cr.P.C. seeking deferment of the cross-examination of C.W.1 to 4 on the grounds mentioned therein.

**8.** The counsel for the accused persons contends that these witnesses are closely related to each other, speak on the same subject matter and share the same set of facts. Cross-examining them individually may result in improvements in their testimonies, which makes it difficult for the defense to effectively counter their claims. The counsel for the accused seeks to cross-examine them in one stretch to avoid prejudicing their case. The learned Public Prosecutor has raised objections, arguing that delaying cross-examination would give the defense an opportunity to influence the witnesses and tamper with the prosecution's case. Further, it is contended that the cross-examination must take place immediately after the examination-in-chief, without undue delay, as prescribed by various judgments of the Hon'ble Supreme Court and Hon'ble High Courts. Section 231(2) of Cr.P.C. grants discretion to the trial court to either proceed with the examination

of witnesses or defer their cross-examination. The provision provides the court with flexibility to ensure a fair trial and that both the prosecution and defense are provided a reasonable opportunity to present their case. The discretion provided under this provision is not absolute and must be exercised judiciously, keeping in mind the circumstances of the case and ensuring the interests of justice. In ***Vinod Kumar v. State of Punjab, (2015) 3 SCC 220***, the Hon'ble Supreme Court emphasized that the trial court must balance the interests of both the prosecution and the defense in deciding on the deferment of cross-examination. The discretion must be exercised in a way that allows for a comprehensive and fair examination of witnesses, particularly in cases where multiple witnesses may have interrelated testimonies. Similarly, in ***State of Kerala v. Rasheed, (2019) 1 KLT 403***, the Hon'ble court highlighted the importance of collective cross-examination when witnesses speak on the same set of facts, as it prevents the possibility of contradictions and inconsistencies arising due to separate cross-examinations over multiple hearings. The Court noted that deferring cross-examination can be allowed in exceptional circumstances to ensure fairness in the trial

process. In the present case, the counsel for the accused has convincingly argued that the witnesses, C.W.1 to C.W.4, are likely to give testimony on similar subject matters and facts. Cross-examining them individually may allow for improvements in their statements, which would prejudice the defense's ability to challenge their consistency and reliability. The request to defer cross-examination until after all these witnesses are examined in chief appears to be reasonable, as it would ensure a more efficient and thorough cross-examination, allowing the counsel for accused to address all relevant facts in one go, thereby promoting procedural fairness. While the prosecution has raised valid concerns about the potential for witness tampering or undue influence, these can be mitigated by imposing strict conditions on the defense. Additionally, the prosecution has not demonstrated any specific risks that would arise from deferring cross-examination, particularly since the witnesses are being examined on the same subject matter and delaying cross-examination would not necessarily jeopardize the case if proper safeguards are in place. Considering the totality of the circumstances, including the need to prevent potential inconsistencies in the testimonies of

related witnesses and ensuring a fair trial, this court finds it appropriate to allow the application filed by the accused under Section 231(2) of Cr.P.C. Accordingly, Point No. 1 is answered in the **affirmative**.

**9. Point No.2:** For the discussion made on Point No.1, following order is passed:

**::O R D E R::**

*The Application filed by the accused under section 231(2) of Cr.P.C is allowed and cross-examination of C.W.1 to 4 is deferred till completion of their examination-in-chief.*

*Counsel for the accused is permitted to cross-examine C.W.1 to 4 at one stretch.*

*(Dictated to Stenographer, directly on computer typed by her taken out print, corrected by me and then pronounced in the Open-Court on **03<sup>rd</sup> day of November, 2025**)*

**[Sri. Ananda]**

*III Additional District & Sessions  
Judge, Hassan.*

