



IN THE COURT OF THE CIVIL JUDGE & JMFC, AT BYADGI.

Present: Sri. Suresh Wagganavar, MA. LL.B., (Spl)

Civil Judge & JMFC, Byadgi.

Dated this the 20th day of July-2024

C.C.No.92/2021

Smt.Farida Rajaksab Naddimulla.

**(By Sri.M.A.M., Advocate)
.... Complainant**

-VS-

Irayya S/o Channabasayya Hiremath.

**(By Sri.H.S.J., Advocate)
.... Accused**

ORDER ON APPLICATION U/Sec.311 of Cr.P.C

1. The counsel for accused has filed this application U/Sec.311 of Cr.PC, seeking permission to recall PW-1 for cross examination in the interest of justice.



2. In the application, the counsel for accused has stated that, the accused has not posed some relevant portion to the PW.1. The prove defence of accused the recall of PW.1 is necessary for adjudication of matter in dispute. Hence, prays to allow the application.

3. Per contra, the counsel for complainant has filed objection to the present application. The counsel for complainant has stated that the application filed by the accused is false, frivolous and vexatious and not maintainable either under law or on facts. The accused has cross examined the PW.1 on 3 dates. But to dragon the matter he has filed application for recall the PW.1. Hence, prays to reject the application.

4. Heard arguments from both side. Perused the material on record. On the basis of the averments and on arguments of counsel, the following points that arise for my consideration: -



POINTS

- 1) Whether the accused has made out a case for allow the application U/Sec.311 of Cr.PC?
- 2) What order ?

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

- | | | |
|------------|---|---------------------------------------|
| Point No.1 | : | In the affirmative and |
| Point No.2 | : | As per final order for the following: |

REASONS

6. **Point No.1**:- It is to be noted that, in order to adjudicate the matter effectually and conclusively, it is necessary to give an opportunity to the accused to cross of PW.1. Hence accused has sufficient reason to allow the IA and if the said application is allowed, no hardship will be caused to the complainant. Accordingly, I answer point No.1 in the **affirmative**.

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

KAHV210002652021



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C.C.No.92/2021

ORDER

Application filed by the accused

U/Sec.311 of Cr.PC, is hereby allowed.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open court on this the **20th day of July, 2024**)

**(Suresh Wagganavar)
Civil Judge & JMFC,
Byadgi.**