

Accused No.1 present. Accused No.2 and 3 are absent. EP filed, allowed.

Learned counsel for the accused No.1 filed application U/Sec. 311 of Cr.P.C. to recall the PW-1 for cross examination. It is contended in the application that due to ill-health and unavoidable circumstances counsel for the Accused No.1 was unable to attend the Hon'ble Court on 12.12.2022 and cross examine the PW-1. Further it appears that PW-1 is being the

complainant if he is not cross examine by A-1, then that will causes prejudice to the case of A-1. If the application is allowed no prejudice will caused to the other side, hence prays to allowed the application.

Application is resisted by written objection, application is not maintainable in the eye of law. If the recall the PW-1 for cross examination, there may be a chance of hostile to the case of the prosecution, further it will causes the noise to his work. And if the application allowed, then that will causes delay. Hence prayed to reject the application.

Heard both side.

The Learned counsel for the Accused No.1 filed this application on 04.01.2023, when this case is stood for issuance of W/S to the CW-2 and 8. Sri. RKH Counsel filed Vakalat on behalf of Accused No.1 On 19.12.2022 on no objection. CW-1 examined as PW-1 on 12.12.2022. On the same day the accused for A-1 has not cross examined the PW-1, as per the contention of the applicant due to ill-health of his counsel, and unavoidable

circumstances counsel for A-1 unable to attend the case on the same day. There is no doubt if the application is allowed then that will causes delay in proceedings, and PW-1 is being the Govt. Servant that will causes disturbance to the his work, but as per the natural justice opportunity has to be given to the other side and case should be tried by following the natural justice. There is no doubt at all if the application is allowed, then that will causes delay in proceedings. It can be cured by imposing the compensative costs. If the application allowed no harm or injustice will caused to the other side. Hence on forgoing discussion I proceed to pass the following;

ORDER

Application filed U/Sec.311 of Cr.P.C. is hereby allowed on cost of Rs.500/-.

PW-1 is hereby recalled on condition that, they have to cross examine the PW-1 on next date of appearing without fail.

Issue W/S to PW-1, CW-2 and
CW-3

Call on :08.03.2023

Prl. Civil Judge & JMFC
Aland