

ORDER ON APPLICATION FILED U/S 311 OF Cr.P.C.

The Accused has filed an application under Section 311 of the Code of Criminal Procedure, 1973, praying to issue summons to defense witnesses in order to lead defense evidence.

2. The Complainant has filed detailed objections resisting the said application.

3. **Brief Facts of the Application:**

In the application, the Accused contends that the Complainant has filed a false cheque bounce case against him. It is submitted that in order to disprove the case of the Complainant, the Accused intends to examine defense side witnesses. It is further submitted that the testimony of the said witnesses is essential for a just decision of the case, and therefore, it is necessary to issue summons to them in the interest of justice and equity.

4. **Objections of the Complainant:**

The Complainant filed written objections contending that the averments made in paragraphs 1 to 3 of the application are vague, bald, and false. The Accused has invoked an incorrect provision of law without specifying the exact statutory provision applicable for summoning defense witnesses. The application does not disclose the name, designation, address, or particulars of the witnesses proposed to be summoned, nor does it specify the nature of the evidence to be adduced. The proposed witness mentioned orally is not a competent or relevant witness to prove or disprove the case. The application is filed at a stage when the case is posted for the cross-examination of DW.1 (Accused) merely to protract the proceedings. Hence, the Complainant prays for rejection of the application.

5. From the rival contentions of the parties, following points arise for my consideration,

Points for Consideration:

1. *Whether the Accused has made out sufficient and reasonable grounds to allow the application filed under Section 311 of Cr.P.C. to summon defense witnesses at this stage?*
2. *What Order?*

6. FINDINGS:

- Point No.1 : In the **negative**,
- Point No.2 : As per the final order,
for the following,

REASONS

7. **Point No. 1:** Perusal of the case records discloses that the matter was posted for the cross-examination of DW.1 (Accused). The Accused tendered his examination-in-chief on 14-11-2025 and got marked Ex.D.1 to Ex.D.20. While the matter stood at the stage of cross-examination of DW.1, the Accused filed the present application along with a list proposing to examine two defense witnesses:

1. **Mr. G. Manjunatha, Advocate**
2. **The Branch Manager, Bandhan Bank, Bangarpet Branch**

8. Although the Accused has furnished the names and addresses of the proposed witnesses, neither the main application nor the witness list discloses **what specific facts or documents** are sought to be proved through each of these witnesses, nor how their evidence is material to the just decision of the case.

9. Proposed Witness No. 1 is an Advocate (**Mr. G. Manjunatha**). Under Section 126 of the Indian Evidence Act, 1872 (Section 132 of the Bharatiya Sakshya Adhiniyam, 2023), professional communications between an Advocate and his client are privileged. The application fails to demonstrate how an Advocate can be summoned as a competent or relevant witness to prove or disprove a cheque bounce case under Section 138 of the Negotiable Instruments Act without violating statutory privilege or causing an abuse of court process.

10. Regarding Witness No. 2 (**The Branch Manager, Bandhan Bank**), the Accused has already marked bank account statements and correspondence as Ex.D.1 to Ex.D.4 and Ex.D.13 during his own chief-examination. However, the cross-examination of the Accused (DW.1) has not yet commenced or concluded. Seeking to issue court summons to bank officials

prior to completing the cross-examination of DW.1 is premature. Whether summoning the Bank Manager is genuinely necessary will only become clear after the Complainant cross-examines DW.1 on those exhibits.

11. The discretionary power under Section 311 of Cr.P.C. is meant to ensure a fair trial and bring essential evidence on record. However, it cannot be exercised mechanically merely because a witness list is filed. The Accused must show that the testimony of each specific witness is indispensably essential to the justly deciding of the case. Merely listing an Advocate and a Bank Manager without stating the precise relevancy or necessity does not satisfy this legal mandate. In view of the privileged/incompetent nature of Proposed Witness No. 1, the premature timing regarding Proposed Witness No. 2, and the total absence of a statement showing relevancy, allowing the application at this stage would result in unnecessary delay in a summary trial. Therefore, this Court holds that the application lacks sufficient grounds at this juncture. Accordingly, **Point No. 1 is answered in the NEGATIVE.**

12. Point No.2 : For the foregoing reasons, I proceed to pass the following,

ORDER

The Application filed by the Accused under Section 311 of the Code of Criminal Procedure, 1973, is hereby **REJECTED**.

For Cross of DW.1 by : 06.08.2026.

**I Addl. Civil Judge & JMFC.,
Bangarpet.**