

KAKL510007182024



IN THE COURT OF PRL. CIVIL JUDGE & J.M.F.C,
AT K.G.F

PRESENT: Smt. Shemida.K, B.A.(Law), LL.B.,
PRL. CIVIL JUDGE and JMFC
AT K.G.F.

C.C.No.527/2024

DATED THIS THE 19th DAY OF JUNE, 2026

Between :-

Complainant : **Ravi,**
S/o Late P.Amarnath,
Aged about 68 years,
R/at #12, Shyamala Cottage,
Sekar Layout, M.V.Nagar,
KGF Taluk.
(Rep. by Sri.K.V.V., Advo.,)

V/S

Accused : **M.R.Seshadri Babu,**
S/o Ravanaiah,
Aged about 32 years,
R/at #118, Old Andhra Line,
Champion Reefs, KGF,
(Rep. by Sri.R.J.B., Adv.,)

ORDER ON IA

The counsel for accused has filed an application U/Sec.311 of Cr.P.C seeking to re-call PW1 for cross-examination in the interest of justice and equity.

2. In the said application it is stated that, the complainant examined himself as PW1 and documents also marked. Meantime the counsel for accused partly cross examined PW1 and later he not able to cross examine PW1. Hence the matter proceeded with and now the case is posted for arguments/defence evidence. Further the above said reason is bonafide and not intentional one and accused is ready to further cross examine PW1. Further if the application is allowed no hardship will be caused to the other side. Hence prays to allow the application.

3. The counsel for complainant has filed the objection wherein it is contended that the present application is not maintainable either in law or on facts. Further contended that already complainant was examined on 23.01.2024 and subsequently 29.01.2025 and the counsel for accused has filed application under Sec.145(2) of NI Act and it was posted for cross-examination of the complainant. Further contended that complainant continuously present and accused took 7 adjournments to cross examine complainant but he fail to do so. Hence that on 10.06.2025 the cross-examination of PW1 taken as nil. Meantime similar application was filed by the accused on 24.06.2025 and same was considered as the complainant stated no objection and matter posted for cross-examination of PW1. Meantime the counsel for accused partly cross examined PW1 and later he fail to do so. Now the stage is defence side evidence and at this stage the present application is filed with oblique motive. Hence there is no ground made out to recall PW1 for cross-examination. Further contended that there is no bonafide

ground to allow the present application and it is filed to drag on the matter. Hence prays to reject the application.

4. I have heard the arguments from both sides. Perused the documents on record.

5. Having heard and on perusal of the materials on record, the following point that would arise for my consideration;

1. Whether the counsel for accused made out valid grounds to re-call PW1 for further cross-examination at this stage as prayed for ?

2. What order?

6. My findings on the above point are as follows:

Point No.1: In the Affirmative,

Point No.2: As per final order, for the following;

REASONS:

7. **Point No.1:** The complainant has filed private complainant under Sec.200 of Cr.PC and present case was registered and later complainant was examined and documents also marked. Meantime my learned predecessor took cognize for the alleged offence punishable under Section 138 of NI Act and present case was registered. Meantime the accused appeared after the service of summons and obtained bail. Later plea of the accused was recorded and the matter was posted for cross of PW1, but the counsel for accused fail to cross examine after providing 5 adjournments, hence that on 10.06.2025 the cross-examination of PW1 taken as nil. Meantime similar application was filed to recall PW1 which came to be allowed on 24.06.2025 and the counsel for accused partly cross examined PW1. Later after providing 3 adjournments the counsel

for accused fail to further cross examine PW1. Hence that on 09.09.2025 further cross-examination of PW1 taken as nil and on the same day the accused was examined under Sec.313 of Cr.PC and the matter posted for defence evidence. Meantime the present application was filed.

8. In the application the counsel for accused intend to recall PW1 for further cross-examination. In the application the contention of accused is that in order to establish his defences the further cross-examination of PW1 is required which is denied by counsel for complainant. It is to be noted that the present application was filed under Sec.311 of Cr.P.C. which deals about power to summon material witness or examine person present which reads as follows:

“Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case”.

9. It is pertinent to note that our Apex court discussed in detail the scope of Section 311 of Cr.P.C in **AIR 1991 SC 1346, Mohanlal Shamji Soni V/S UOI and another**. It is held that it is a cardinal rule of the law of evidence, that the best available evidence must be brought before the court to prove a fact, or a point in issue. However, the court is under an obligation to discharge its statutory functions, whether discretionary or obligatory, according to law and hence ensure that justice is done. The court has a duty to determine the truth, and to render a just decision.

10. In the present case on hand, PW1 was partly cross examined and two documents were confronted to him and same were marked as Ex,D1 and 2. The accused fully denies the case of the complainant and the alleged cheque amount is Rs.8,50,000/-. In the present nature of case the burden is more on the complainant and the accused has to raise his probable defence. It is true that earlier several opportunity granted to accused to cross examine PW1 which was not used by counsel for accused. In order to avoid further multiplicity of proceedings and by keeping in mind the object behind Section 311 of Cr.P.C, I feel it is necessary to give an opportunity to the accused for further cross-examination of PW1., otherwise it will cause prejudice to the accused. With these observations, I answer the Point No.1 in the **AFFIRMATIVE**.

11. Point No.2: In view of the reasons stated while answering Point No. 1, I proceed to pass the following;

ORDER

The application filed by the accused under Section 311 of Cr.P.C is hereby allowed with cost of Rs.500/-.

In the result PW1 is hereby re-called for further Cross-examination.

(Dictated to the Stenographer directly on computer, revised and corrected by me then pronounced in the open court, this the **18th day of June, 2026**)

Sd/-
(SHEMIDA.K)
Prl. Civil Judge and J.M.F.C,
KGF.