

**IN THE COURT OF THE PRL. SENIOR CIVIL
JUDGE AND JMFC AT PANDAVAPURA**

Dated : this the 18th day of March 2026

PRESENT :

Sri.R.MAHESHA, B.A.L. LL.B.
Prl. Senior Civil Judge & JMFC.,
Pandavapura.

C.C.No.176/2020

Complainant : State by Pandavapura Police Station.

V/s

Accused : 2. Sameer Khan

ORDER

Learned APP has filed application u/Sec.311 of Cr.P.C. to recall PW7, PW9 and PW11 are being police officers for the purpose of cross-examination and CW23 and CW24 are being Investigating Officers for the purpose of examination, on the ground that the examination and cross-examination of said witnesses are material witnesses. In order to prove the guilt of the accused, examination and cross-examination of material witnesses is necessary. Therefore, she intends to examine the above witnesses. Hence, prayed to consider this application.

2. Defence Counsel for accused No.2 has filed his objections to application filed by learned APP u/s. 311 of Cr.P.C. and stated in his objections that, the SHO of Pandavapura PS charge-sheeted against accused persons for the offence punishable u/s. 457 and 380 of IPC. Now case stands for arguments. PW7, PW9 and PW11 are police officers and they traced accused persons. Their chief-examination completed. Now accused filed application to recall PW7, PW9 and PW11 for cross-examination. CW23 and CW24 of Investigating Officers of this case. Their examination not conducted by prosecution. This Hon'ble court issued process of summons, warrant, proclamation. Despite that, the executing agency has been failed to execute process issued by this court. Therefore, they are dropped out by this Hon'ble court. Therefore, prayed to reject the application in the interest of justice and equity.

3. Based on the rival contentions of the parties, the following points arise for my consideration :-

1) Whether the learned APP has made out grounds to allow the application ?

2) What order ?

4. Heard both sides. Perused the records.

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

Point No.1 : In the Negative,

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

REASONS

6. **Point No.1:-** The present case filed by complainant Police against accused for the alleged offence punishable under Sections 457 and 380 of IPC before the court of Civil Judge (Jr.Dn.) & JMFC, Pandavapura. It is numbered as C.C.No.933/2011 on 14.10.2011. Accused No.1 to 3 are enlarged on bail by the court of Civil Judge & JMFC, Pandavapura. Split C.C. No.6/2019 registered against accused No.3 vide order dated 24.12.2018 before the office of Civil Judge & JMFC, Pandavapura. Accused No.1 pleaded his guilt on 28.10.2019. In view of the order No.141/2019 dated 11.12.2019 of Hon'ble PDJ, Mandya, this case withdrawn from Civil Judge & JMFC, Pandavapura and transferred to this court for disposal in accordance with law. So, it is registered in C.C.No.176/2020 before this court on 24.11.2019. Since, 03.02.2021 till 10.06.2024 accused No.2 continuously absent before this court. Despite this court took process against accused No.2, but it could not possible to secure his presence before this court. On 10.06.2024, accused No.2 voluntarily appeared before this court and taken him to judicial custody. He enlarged on bail on 13.06.2024. Further trial commenced by this court. CW9 examined as PW4 on 25.11.2024. CW5 to CW8 dropped out by rejecting prayer of learned APP on 13.01.2025. CW17 examined as PW5 on 17.03.2025. CW16 examined as PW6 on 21.04.2025, CW12, CW11 and CW15 are examined as PW7 to PW9 on 16.06.2025. Prosecution has given up CW13 and CW14 on 16.06.2025. CW18 and CW19 examined as PW10 and PW11 on 30.06.2025. CW10 examined as PW12 on 11.08.2025. CW21 examined as PW13 on 30.08.2025. CW22 and CW20 examined as PW14 and PW15 on 06.10.2025, CW25 examined as PW16 on 12.11.2025. One A.S.

advocate provided by TLISA, Pandavapura for accused on 12.11.2025. Accused counsel has filed application to recall PW1 to PW3, PW6 to PW11 for cross-examination and said application allowed on 12.11.2025. So, accordingly this court issued summons against PW1 to PW3 and PW6 to PW11 and bailable warrant issued against CW22 to CW25 since 30.08.2025. PW1 to PW3 present before court and counsel for accused conducted full cross-examination of PW1 to PW3 on 04.12.2025. This court re-issued bailable warrant against PW6 to PW11, CW23 and CW24 on 04.12.2025. PW8 and PW10 present before court, the counsel for accused full conducted cross-examination of PW8 and PW10 on 22.12.2025. This court again re-issued bailable warrant against PW6, PW7, PW9, PW11, CW23 and CW24 on 22.12.2025. PW6 present before court and counsel for accused conducted cross-examination of PW6 on 07.01.2026. Further this court re-issued process of bailable warrant against PW7, PW9, PW11, CW23 and CW24 on 07.01.2026. Further it can be seen from order-sheet that, this court issued witness warrant and proclamation against PW7, PW9, PW11, CW23 and CW24 through local police officers and senior police officers since 19.01.2026 till 09.03.2026. Despite that, the police officers/execution agency has been failed to secure presence of PW7, PW9, PW11, CW23 and CW24. The present case of the year 2011, therefore considering the age of case and adjournments provided by this court, the prayer of learned APP rejected and chief-examination of PW7, PW9 and PW11 discarded and CW23 and CW24 are dropped out vide order dated 09.03.2026. 313 statement of accused recorded on 12.03.2026. When matter stood for arguments, the present application moved by learned APP. Admittedly it is a matter of the year 2011. Already this case took sufficient time for the

purpose of conducting trial. This is a more than 15 years old case. Further it is relevant to note that, when matter stood for prosecution side evidence, the prosecution for what reasons not secure witnesses presence before this court is not forthcoming in their application. Further it is relevant to note that, PW 7, PW9 and PW11 are police officers, CW23 and CW24 are also Investigating Officers of this case. It is bounded duty of prosecution and execution agency to secure presence of witnesses before this Hon'ble court when this court called or ordered. The aforesaid witnesses are absent, why they are absent before this Court, from which date this Court repeatedly issued witness warrants and proclamation against them and there is no any satisfactory reasons from prosecution why executing agency has not published proclamation issued against PW7, PW9 and PW11 and CW23 and CW24 or why the executing agency not arrest them and produce before this Court for examination of above witnesses is not forthcoming. The prosecution has filed bald application without stating any valid and genuine reasons. The above matter is of the year 2011 it is a old case on the file of this Court. The prosecution has not assigned any good reasons or what reasons witnesses are absent before this Court despite granted sufficient adjournments. It can be seen from order sheet that the present case proceedings protracted since 27.01.2020 till 09.03.2026 without any valid reasons. But some period may be excused due to COVID-19. Therefore, from this Court opinion, the application filed by the learned APP deserves to be rejected. Accordingly, I answer **Point No.1 in the Negative.**

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

ORDER

**The application filed u/Sec.311 of Cr.P.C.
by the learned APP is hereby rejected.**

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

(R.MAHESHA)
Prl. Senior Civil Judge & JMFC.,
Pandavapura.

Order pronounced in the Open Court
(Vide separate order)

ORDER

The application filed u/Sec.311 of Cr.P.C. by
the learned APP is hereby rejected.

Dt : 18.03.2026

Prl. Sr. Civil Judge & JMFC.,
Pandavapura.

