

Date:28.08.2026

C.C.No.240/2016

**ORDERS ON APPLICATION FILED BY THE ACCUSED**

**U/SEC. 311 OF Cr.P.C:-**

The counsel for the accused Sri.NPM has filed an application U/Sec.311 of Cr.P.C., requesting to recall PW-1 for the purpose of further cross-examination in the interest of justice.

It is stated in the application that recalling of PW-1 is very much necessary for the purpose of further cross examination on behalf of the accused person. On the other hand, if the application is not allowed, the accused will be put to hardship and inconvenience and hence opportunity is expedient to be afforded for the purpose of cross-examination of the complainant to bring this Hon'ble Court on the version of the accused. Hence, prayed to recall PW-1 for the purpose of cross examination by allowing the present application.

The counsel for the complainant has filed detailed objections. Wherein it is stated that the application filed by the accused is not maintainable either in law or on facts and it is liable to be dismissed. It is further submitted that, the case was filed on 24.08.2016 and this Hon'ble court had issued summons to the accused. The accused person is a Government employee but unfortunately the summons was not served until 21.03.2019, but the accused was not appeared before the court, hence this Hon'ble Court had issued NBW against the accused. Later on 05.01.2023, the accused has appeared before this court through counsel and filed bail application along with warrant recall application the same was allowed. In spite of sufficient opportunity to the accused, he has failed to further cross examine the PW.1 and hence further cross examination of PW.1 was taken as nil on 16.10.2023 and

statement of the accused U/Sec.313 of Cr.P.C. was recorded on 07.11.2023 and posted for defence evidence. On 08.07.2024, the accused has filed another application U/Sec.311 of Cr.P.C., seeking permission for further cross-examination of PW.1 and the said application has been allowed on 08.11.2023. Inspite of sufficient opportunity, the accused has not cross-examined the PW.1 and hence, cross of PW1 is taken as nil on 20.03.2025 and the matter was posted for defence evidence on 07.04.2025. Inspite of sufficient opportunity given to the accused, the accused has not adduced his evidence before the court and hence, evidence of the accused is taken as nil on 07.04.2025 and the matter was posted for arguments of the complainant on 09.04.2025, the L/C for the complainant addressed his arguments on merits and the matter was posted for arguments of the accused on 09.07.2025. On 09.07.2025, the accused has filed another application U/Sec.311 of Cr.P.C, seeing permission to further cross of PW.1 and the same was allowed on 29.07.2025. Inspite of sufficient opportunity, the accused has not cross examined the PW.1 on 20.08.2025 and the further cross-examination of PW.1 is taken as nil on 20.08.2026 and the matter was posted for arguments of the accused on merits. On 17.09.2025, the accused has filed another application U/Sec.311 of Cr.P.C, seeking permission to further cross of PW.1 and the same was allowed on 06.04.2026. Inspite of sufficient opportunity, the accused has not further

cross examined the PW.1 and hence on 16.04.2026, the further cross of the PW.1 is taken as nil. The L/C for the complainant has canvassed his arguments on merits and the case was posted to 17.04.2026, for arguments of the accused. On 17.04.2026, the accused filed another application U/Sec.311 of Cr.P.C. seeking permission for further cross of PW.1. Thereafter the accused was not appeared before the court from 01.06.2026 to this day ie 28.06.2026. In spite of sufficient opportunity, the accused has not cross examined the PW1. Hence case was posted for arguments. At this stage accused filed this application with an intention to drag the matter unnecessarily and avoid the benefits to be given to the complainant. Hence, prayed to reject the same with costs.

Heard and perused both the learned counsels and perused the entire case records.

I have gone through the entire case records.

The case was filed on 24.08.2016 and this Hon'ble court had issued summons to the accused. The accused person is a Government employee but unfortunately the summons was not served until 21.03.2019, but the accused was not appeared before the court, hence this Hon'ble Court had issued NBW against the accused. Later on 05.01.2023, the accused has appeared before this court through counsel and filed bail application along with warrant recall application the same was allowed. In spite of sufficient

opportunity to the accused, he has failed to further cross examine the PW.1 and hence further cross examination of PW.1 was taken as nil on 16.10.2023 and statement of the accused U/Sec.313 of Cr.P.C. was recorded on 07.11.2023 and posted for defence evidence. On 08.07.2024, the accused has filed another application U/Sec.311 of Cr.P.C., seeking permission for further cross-examination of PW.1 and the said application has been allowed on 08.11.2023. Inspite of sufficient opportunity, the accused has not cross-examined the PW.1 and hence, cross of PW1 is taken as nil on 20.03.2025 and the matter was posted for defence evidence on 07.04.2025. Inspite of sufficient opportunity given to the accused, the accused has not adduced his evidence before the court and hence, evidence of the accused is taken as nil on 07.04.2025 and the matter was posted for arguments of the complainant on 09.04.2025, the L/C for the complainant addressed his arguments on merits and the matter was posted for arguments of the accused on 09.07.2025. On 09.07.2025, the accused has filed another application U/Sec.311 of Cr.P.C, seeing permission to further cross of PW.1 and the same was allowed on 29.07.2025. Inspite of sufficient opportunity, the accused has not cross examined the PW.1 on 20.08.2025 and the further cross-examination of PW.1 is taken as nil on 20.08.2026 and the matter was posted for arguments of the accused on merits. On 17.09.2025, the accused

has filed another application U/Sec.311 of Cr.P.C, seeking permission to further cross of PW.1 and the same was allowed on 06.04.2026. Inspite of sufficient opportunity, the accused has not further cross examined the PW.1 and hence on 16.04.2026, the further cross of the PW.1 is taken as nil. The L/C for the complainant has canvased his arguments on merits and the case was posted to 17.04.2026, for arguments of the accused. On 17.04.2026, the accused filed another application U/Sec.311 of Cr.P.C. seeking permission for further cross of PW.1. Thereafter the accused was not appeared before the court from 01.06.2026 to this day ie 28.06.2026. Inspite of sufficient opportunity, the accused has not cross examined the PW1. Hence case was posted for arguments. At this stage accused filed this application with an intention to drag the matter unnecessarily and avoid the benefits to be given to the complainant.

In this case, as rightly contended by the counsel for the complainant, the evidence of both the witnesses is over and both of them have been fully cross examined and after recording statement of the accused U/Sec.313 of Cr.P.C., now the case is posted for argument of accused. At this belated stage the accused came up with the present application requesting to recall PW-1 for the purpose of further cross examination. The case on hand is of the year 2019.

The counsel for the complainant has relied on the ruling reported in **2019 AIAR (Criminal)**

**587) (Swapam Kumar Chatterjee V/s Central Bureau of Investigation.** Wherein it is held that;

"Criminal Procedure Code, 1973, Sec. 311- Provisions of – Scope and admit of – It is well settled that the power conferred under Sec. 311 of Cr.P.C. should be invoked by the Court only to meet the ends of justice – The power is to be exercised only for strong and valid reasons and it should be exercised with great caution and circumstances– the court has wide power under this Section to even recall witnesses for re-examination or further examination necessary in the interest of justice – But the same has to be exercised after taking into consideration the facts and circumstances of each case – the power under this provisions shall not be exercised if the court is of the view that the application for the same has been filed as an abuse of the process of law – Where the prosecution evidence has been closed long back and the reasons for non-examination of the witnesses earlier is not satisfactory–The summoning of the witnesses at belated stage would cause great prejudice to the accused and should not be allowed – Similarly the Court should not encourage the filing of successive applications for recall of a witness under this provision.

The case on hand is of the year 2016. Now the matter is posted for argument of accused. Even in the application also the counsel for the accused has not stated justifiable grounds to allow

the application. Hence, the application filed by the counsel for the accused deserves to be rejected. Hence, in view of the above reason I proceed to pass the following:

**ORDER**

The application filed by the accused U/Sec.311 of Cr.P.C is hereby rejected.

No order as to costs.

For arguments of accused by 5.p.m

(UMESHA M.P)  
Prl.Civil Judge & JMFC.,  
Srirangapatna

