

KAMS300003142024



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND JMFC AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B,
Prl.Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 15th day of July, 2026.

CC No.126/2024

Complainant: Sri.Narayanaswamy, S/o Late Devanayaka,
Aged about 45 years,
R/at Halechikka – Hunsur,
Kasaba Hobli, Hunsur Taluk,
Mysore District.

V/s

Accused: Sri.Anjani, S/o Late Rudrappa,
Aged about 45 years, R/at Konanahosalli
Village, Doddahajjuru Post, Hanagodu
Hobli, Hunsur Taluk, Mysore District.
Now R/at C/o Thyagaraju,
Retired School Teacher,
Maruthi Badavane, Vishweshwaraiah
Stadium Back Side, Hunsur Town,
Mysore District.

1.	Provision under which the application is filed	:	Under Section 311 of Cr.P.C
2.	Relief sought for	:	To reopen the case and to recall PW1 for the purpose of further cross-examination
3.	The date on which the application is filed	:	10.06.2026
4.	Number of the application	:	Nil

5.	The date on which the objection is filed by the opponents	:	15.06.2026
6.	The date on which the orders passed on the said application	:	15.07.2026

**ORDERS PASSED ON AN APPLICATION FILED UNDER
SECTION 311 OF CR.P.C.**

When the case is posted for defence arguments, the learned counsel for the accused filed the present application under Section 311 of Cr.P.C to reopen the case and to recall PW1 for the purpose of further cross-examination.

2. In the application it is stated that, the complainant filed the complaint against the accused for the offence punishable under Section 138 Negotiable Instruments Act and now the case is posted for arguments. On the last date of hearing his counsel was engaged in another court and he could not further cross-examine PW1. In order to prove his defence, further cross-examination of PW1 is very important. If the application is not allowed he will be put to great hardship. On the other-hand if the same is allowed no hardship is going to be caused to the other-side. Hence, prayed to allow the application.

3. On the other-hand the learned counsel for the complainant filed the objection contending that, the application is not maintainable under law or on facts. The application is baseless, unfounded and meaningless, since the story narrated in the application is totally concocted. The application is highly belated, devoid of merits and lacks bonafide. The application is filed with an intention to drag on

the proceedings and in order to trouble the complainant to harass him unnecessarily. The application is incorrect and against the law and this court has provided sufficient opportunity to the accused, but intentionally in order to kill the precious time of the court, he has not chosen to further cross-examine of PW1. If the application is allowed complainant will be put to great hardship. Hence, prayed to dismiss the application with costs.

4. Thereafter, heard arguments addressed by learned counsels for the accused and the complainant and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the accused has made out sufficient grounds to reopen the case, and to recall PW1 for the purpose of further cross-examination?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the Affirmative.

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

REASONS

6. **Point No.1:** The complainant presented the complaint against the accused under Section 200 of Cr.P.C for the offence punishable under Section 138 of NI Act. It is the definite case of the complainant that, himself and the accused known to each other since several years and on different dates

totally the accused borrowed Rs.5,73,198/- through bank transaction for his agricultural expenses, household expenses and M-sand business with an assurance to repay the same within six months. After lapse of six months the complainant approached the accused for repayment of the said amount, then accused issued a cheque bearing No.075807 for Rs.5,73,198/- dated 05.01.2024 drawn on Federal Bank, Hunsur Branch, Hunsur. Upon presentation the cheque came to be dishonored for the reason "Funds Insufficient" in the account of the accused. As such on 11.01.2024 the complainant issued notice to the accused upon his two addresses and the notice issued to his permanent address returned as refused and notice issued to working address returned as unclaimed. In spite of the same the accused has not chosen to repay the cheque amount which made the complainant to present the complaint.

7. After filing of the complaint this court took cognizance for the offence punishable under Section 138 of Negotiable Instruments Act and recorded the sworn statement of the complainant. Upon finding prima-facie materials this case came to be registered. At this juncture this court would like to mention that, this case came to be registered on 02.03.2024 and thereafter summons was duly served upon the accused and he remained absent. He absconded from the court till 23.04.2025. Thereafter, he has appeared before the court and the plea was recorded. On 16.07.2025 the accused filed an application under Section 145(2) of NI Act which came to be allowed. On 06.08.2025 the learned counsel for the

accused prayed time for cross-examination of PW1 and this court rejected the prayer and cross of PW1 taken as nil. On 03.09.2025 the accused has been examined under Section 313 of Cr.P.C and he has denied the all the incriminating circumstances appeared against him and not opted to lead defence evidence. On 20.09.2025 the accused counsel filed an application under Section 311 of Cr.P.C. which came to be allowed and on 13.10.2025 and PW1 has been partly cross-examined. Thereafter, PW1 appeared before the court but the further cross-examination was not conducted and on 15.04.2026 this court taken the further cross of PW1 as nil and posted the case for arguments.

8. In the meantime the accused remained absent and NBW was issued which came to be recalled on 14.05.2026. On 03.06.2026 this court heard arguments of learned counsel for the complainant and when the case has been posted for defence arguments on 10.06.2026 this application came to be maintained. The application is filed on the ground that, the accused in order to prove his defence needs to further cross-examine PW1. On the other-hand the learned counsel for the complainant stated that, the application is filed to drag on the proceedings and it is filed at a belated stage.

9. It is very important to note that, it is the settled principles of law that, in a litigation before the court all the parties shall be given equal opportunity in order to put-forth their case. Admittedly, PW1 has not been fully cross-examined by the accused counsel. As such the principles of natural justice is to be borne in mind and it is necessary to provide an

opportunity for the accused to further cross-examine PW1. The delay caused by the accused could be compensated by imposing costs. Hence, this court comes to the conclusion that, the accused has made out sufficient grounds to reopen the case and to recall PW1 for the purpose of further cross-examination. Accordingly, Point No.1 is answered in the Affirmative.

10. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

The application filed by the accused under Section 311 of Cr.P.C is hereby allowed with costs of Rs.1000/-.

Accordingly, the case is reopened and PW1 is recalled for the purpose of further cross-examination subject to payment of costs.

(Dictated to the Stenographer directly on the computer and same is corrected and pronounced by me in the open court on this the 15th day of July, 2026.)

Sd/-
(Anitha)
Prl. Senior Civil Judge and JMFC.,
Hunsur.