

KAMS310005662019



IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC, HUNSUR

DATED THIS THE 18TH DAY OF JULY, 2026

-:PRESENT:-

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

C.C.No.129/2019

COMPLAINANT: Shivannegowda

// Versus //

ACCUSED: Paramesh

i	Provision under which the application is filed	Under section 311 of the Code of Criminal Procedure
ii	Relief Sought for	To reopen the stage for further examination of DW.2
iii	The date on which the application is filed by accused	17.06.2026
iv	Number of the application	II
v	The date on which the objection is filed by complainant	Orally objected

vi	The date on which the order was passed on the said application	18.07.2026
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**ORDER ON APPLICATION FILED BY COUNSEL FOR
ACCUSED UNDER SEC.311 OF Cr.P.C.**

The Counsel for accused has filed the present application under Section 311 of the Code of Criminal Procedure, praying this Court to reopen the stage for further examination of DW.2. It is submitted that the complainant has filed the present complaint against the accused for the offence punishable U/sec.138 of Negotiable Instrument Act. It is stated that, there are certain questions left out that has to be posed to DW.2. It is further stated that, the further evidence of DW.2 is necessary to prove the defense taken up by accused. It is further contended that if the application is not not allowed the accused will be put to hardship and on the other hand, no injustice will be caused to complainant. Hence, prays for allowing the application.

2. On receipt of the application, the learned counsel for complainant has orally objected the application contending that the application is not maintainable either in law or on facts. It is further contended that when the matter was posted for arguments, the accused has come forward with the present application, this is an attempt to drag the proceedings. It is

further stated that, on the last date of hearing, DW.2 was present and accused counsel has examined DW.2 in total. It is further contended that the present application is frivolous and vexatious, and that allowing the same would cause undue hardship and prejudice to the complainant. Hence, sought for dismissal of the application.

3. On the basis of application and objections filed to the said application, following points arose for my consideration:

1. Whether the accused has made out sufficient grounds to allow the application?

2. What order?

4. My answer to the above points is as under:-

POINT No.1 : In the Affirmative

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

REASONS

5. POINT NO.1:- This court has carefully perused the application filed by the counsel for accused under Section 311 of Cr.P.C., the oral objections of the complainant counsel, and the material available on record and has given anxious consideration to the rival submissions made by both sides.

6. Section 311 of the Code of Criminal Procedure confers wide discretionary power upon the Court to summon, examine, recall, or re-examine any person as a witness at any stage of inquiry, trial, or other proceedings, if such evidence appears to be essential for the just decision of the case. The paramount consideration under this provision is the discovery of truth and to render substantial justice.

7. In the present case, it is evident from the records that the matter was posted for arguments, the accused counsel has specifically contended that the examination of DW.2 is absolutely necessary to prove the defense raised by accused. If the application is rejected at this stage, it may result in serious prejudice to the accused and may ultimately defeat the ends of justice.

8. The contention of the complainant that allowing the application would cause hardship or prejudice cannot be accepted, as the complainant will be given full opportunity to cross examine the witness. No irreparable prejudice would be caused to the complainant, whereas grave injustice may be caused if the accused is denied an opportunity to examine the witness.

9. The power under Section 311 of Cr.P.C. is required to be exercised judiciously and to advance the cause of justice. Considering the facts and circumstances of the case, this Court is of the considered opinion that the accused counsel has made out sufficient and valid grounds to reopen the stage for further evidence of DW.2. Accordingly, Point No.1 is answered in the **Affirmative**.

10. **POINT NO.2:-** In view of discussion and conclusion arrived at Point No.1, the application filed by the accused deserves to be allowed. Accordingly, I proceed to pass following:

ORDER

The application filed by accused counsel under section 311 of Code of Criminal Procedure is hereby allowed.

The stage is reopened for further evidence of DW.2.

(Dictated to the Stenographer on Computer, typed by her on Computer, revised, corrected and then pronounced by me in the open Court on this day, the **18th day of July 2026**)

(Namrata S Hosmath)
I Addl. Civil Judge & J.M.F.C.
Hunsur.