



**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C.,  
MAGADI.**

**Present :- SHRINIVASA.K.R., B.A.L., LL.M.  
Prl.Civil Judge & JMFC.,  
Magadi.**

**C.C.No.3061/2021**

**Dated this the 30<sup>th</sup> day of June - 2025**

**Complainant :** Smt.Mamtha,  
D/o Manjanna,  
Aged about 32 years,  
Residing at Gummasandra Village,  
Kasaba Hobli,  
Magadi Taluk,  
Ramanagara District.  
**( By Sri.C.K.H., Adv )**

**// Versus //**

**Accused :** 1. G.Manjunatha,  
S/o S/o Late A Gangaiah,  
Aged about 38 years,  
2. Sarasamma,  
W/o Late A.Gangaiah,  
Aged about 60 yrs,  
3. Srinivas,  
S/o Late Gangaiah,  
Aged about 55 years,  
4. Munirathnamma,  
W/o Srinivas,  
Aged about 50 years,



5. Asha H,  
Father name not  
Known to the complainant  
Second wife of fist  
Accused G.Manjunatha,  
Aged about 42 years,

All are R/at 4<sup>th</sup> E Cross,  
Kaakshipalya,  
Vinayakanagara,  
Bangalore-79

**( By Sri.S.S.P., Adv )**

**ORDER ON APPLICATION FILED BY THE ACCUSED**  
**U/SEC.311 OF Cr.P.C.,**

The learned counsel for the accused have filed application for recall of PW-1 for cross examination.

In the application it is stated that, the complainant filed private complainant against the accused persons for the alleged offence punishable under section 494 of IPC. On 21.02.2025 the matter was posted for cross examination of PW-1. The counsel for the accused was held up in Hon'ble High court and unable to appear before the Court to cross examine the PW-1. Hence, cross of PW-1 taken as nil. There is necessary to recall the PW-1 and permit the accused to



cross examine the complainant. Hence, prays to allow the application.

2. On the other hand, the counsel for complaint filed objection and contended that, the application filed by the accused is not maintainable. The averments of application are false. Sufficient opportunity given to the accused to cross examination of PW-1 but the accused failed to cross examination of PW-1. There is no genuine ground. Hence, prays to reject the application.

3. I have heard the argument of learned counsel for accused and complainant and perused the materials on record.

4. The following point arises for my consideration:

1. Whether the application filed on behalf of accused is deserves to be allowed?
2. What order?

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

Point No.1 : In the **Affirmative**.

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

**REASONS**

6.**Point No.1:** The complainant has filed complaint against the accused for the offence punishable U/sec.494 of IPC. After issuing of summons the accused appeared before the court through their counsel and enlarged on bail. After chief examination of PW-1 the counsel for accused prays time for cross examination even though sufficient opportunity accused not cross-examined the PW-1 hence, cross of PW-1 taken as nil.

7. Sec.311 of Cr.P.C., confers any court may at any stage of trial recall witness who already examined and the court shall recall the witness which appears to be essential to the just decision of the case. The object of the Sec.311 of Cr.P.C., is that, there may not be failure of justice on account of mistake of either party in bringing the valuable on records. Hence, this being the position it is well-established principal of law that every opportunity has to be given on either side. Under such circumstances, if the application is rejected the accused will be put into irreparable loss and hardship. On the other side, if the application is allowed there is no hardship cause to the complainant. In view of this if the application is allowed on cost it will meet the ends of justice. Hence,



without more discussion, I answer the point No.1 in the **Affirmative.**

8. **Point No.2:** In view of my finding to the point No.1 in the affirmative, I proceed to pass the following:

**ORDER**

Application filed by the accused U/Sec.311 of Cr.P.C., is hereby allowed on cost of Rs.1000/- and consequently PW-1 is hereby recalled.

(Dictated to the Stenographer on Computer, typed by him, order corrected and signed by me, then pronounced by me in open court on this the 30<sup>th</sup> day of June – 2025.)

**(Sri. SHRINIVASA.K.R.)**  
**Prl. Civil Judge & J.M.F.C.,**  
**Magadi.**