



**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.

Crl.Misc No.37/2023

Dated this the 30th day of June - 2025

Petitioner : Smt.Mamtha.M,
W/o G.Manjunatha,
D/o Manjanna,
Aged about 34 years,
Residing at Gummasandra Village,
Magadi Post,
Kasaba Hobli,
Magadi Taluk,
Ramanagara District.
(By Sri.P.A.V., Adv)

// Versus //

Respondent : G.Manjunatha,
S/o Gangaiah,
Aged about 34 years,
R/at 4th Cross,
E Cross,
Kamakshipalya,
Vinayakanagara,
Bangalore-79

Also R/at,
Lakshmi Venkateshwara Nilaya,
Sunkadakatte,



Srinivasa Circle,
Vijay Bank Road,
Magadi Main Road,
Bengaluru-560091.

(By Sri.S.S.D., Adv)

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

The learned counsel for the respondent has filed application for recall of PW-1 for cross-examination.

2. In the application it is stated that, the petitioner had filed present petition under section 125 of code of criminal procedure and sought for monthly maintenance from the respondent. On 05.03.2025 the matter was posted for cross examination of PW-1. The counsel for the respondent was held up in Hon'ble High court and unable to appear before the court. Hence could not cross-examined the PW-1. The respondent is having good case on merits. Hence, there is necessary to recall the PW-1 and permit the respondent to cross examine the petitioner. If the application is allowed no hardship would be caused to the petitioner. Hence prays to allow the application.



3. On the other hand, the petitioner counsel filed objection stating that, the application filed by the petitioner is not maintainable either in law or on facts. That there is no ground to allow the application and the respondent have sworn a false contents in his application with an intention to drag on the proceeding. If the application dismissed with exemplary cost no hardship or injury will be caused to the respondent, on the other hand if the application is allowed the petitioner will be put to great hardship and injury will caused to her which matter posted for cross examination. Hence, prays to reject the application.

4. I have heard the argument of learned counsel for petitioner & respondent and perused the materials on record.

5. The following points arises for my consideration:

1. Whether the application filed on behalf of respondent is deserves to be allowed?

2. What order?

6. My answer to the above points are as under:



Point No.1: **Affirmative.**

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

REASONS

7. **Point No.1:-** The petitioner filed present petition Under Section 125 of Cr.P.C. When the case was posted for cross of PW-1, the respondent counsel prays time for cross-examination of PW-1 but the prayer of respondent counsel rejected and cross-examination of PW-1 taken as nil. The contention of respondent counsel is that, the respondent counsel held up in Hon'ble High court hence he could not able to present before the court to cross-examination of PW-1. Hence, prays to recall the PW-1. On the other hand the petitioner counsel contended that, the respondent to drag on the proceeding filing unnecessary application without any valid reason. Hence, prays to reject the application.

8. 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 principle of law that every opportunity has to be given on either side. Under such circumstances, if the application is rejected the respondent will be put into irreparable loss and hardship. On the other side, if the application is allowed there is no hardship cause to the petitioner. 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**.

ORDER

Application filed by the Respondent 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 **30th day of June – 2025.**)

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

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