

13.09.2024

For Orders.

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

The learned counsel for the complainant has filed application for recall of PW-1 for further further chief-examination of PW-1. In the application it is stated that, to prove the case of complainant the complainant producing some of the documents. Hence, it is just and necessary recall the PW-1 for further chief examination. Hence, prays to allow the application.

2. On the other hand, the accused counsel filed objection & contended that, to drag the proceedings the complainant has filed application along an irrelevant documents. There is no ground to allow the application. Hence, prays to reject the application.

3. I have heard the arguments of learned counsel for complainant & accused.

4. The following point arises for my consideration:

1. Whether the application filed on behalf of complainant 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 U/Sec.200 of Cr.P.C., for the offence punishable U/Sec.138 of N.I.Act., the complainant examined himself as PW-1 and got marked documents and issued process against accused. Accused appeared through his counsel and enlarged on bail after appearance of accused substance of accusation recorded and accused pleaded not guilty and posted for cross examination of PW-1. When case posted for cross examination of PW-1, the complainant filed present application along with documents contending the said documents are necessary to prove his case.

Hence, prays to allow the application. On the other hand the accused counsel contended the documents which are produced by the complainant not relevant to this case. Hence, prays to reject the application.

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 complainant will be put into irreparable loss and hardship. On the other side, if the application is allowed there is no hardship cause to the accused. In view of this if the application is allowed 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 complainant U/Sec.311 of Cr.P.C., is hereby allowed and consequently PW-1 is hereby recalled and documents taken on record.

For further chief-examination of PW-1.

Call on 03.10.2024.

**Prl. Civil Judge & J.M.F.C.,
Magadi.**