

**ORDER ON APPLICATION FILED BY THE
COMPLAINANT DATED 21.03.2024**

The learned counsel for complainant has filed application dated 21.03.2024 to produce document.

2. The learned counsel for the accused has filed detailed objection.

3. Heard the arguments on both side and perused the records in detail.

4. Now, the point that arise for my consideration is:

“ Whether the application filed under section 242 of Cr.P.C. is deserves to be allowed?

5. My answer to the above point is in the **Affirmative** for the following:

REASONS

6. The counsel for the complainant submits that, it is most important to produce document and prayed to condone delay in producing certain documents. Further, the counsel for the complainant stated that it is most important to produce documents to prove his case and if the application is

not allowed great hardship and irreparable loss will caused to the complainant.

7. The learned counsel for accused has filed objection and contended that the application filed by the complainant is highly belated and the document referred in the list are not stated in the complaint and not produced at the time of filing of the complaint. The learned counsel for the accused further contended that the complainant was examined and cross examined and to fill up the lacuna which was elicited in the cross-examination, the complainant came with this application. Hence, this application cannot be considered. If the application is allowed, defence of the accused will be collapsed and as per Section 173 of Cr.P.C., the application, all the documents should be filed at the time of filing of the complainant and there is no provision to fill up the lacuna in the evidence of the complainant.

8. The power is vested with the court to permit to produce any document, if it appears that the

producing of such documents are essential to the just decision of the case. At this juncture, this court is not going into the correctness or falsity of the averments of applications. As the accused is having opportunity to rebut the same as it is having opportunity to cross-examine the witness who got marked the documents. Hence, court feels that no prejudice can said to be caused to the accused even if the present application is allowed. Court feels under no circumstances can a person right to fair trial be jeopardized. Contesting the case is valuable right. Denial of such right would amount to the denial of fair trial. As per section 311 of Cr.P.C. and 91 of Cr.P.C. court may exercise its discretionary power. Though the learned counsel for complainant has cited the wrong provision, only on technical basis this application cannot be dismissed. If these application are not allowed, the complainant will be put to hardship and the judgment may happened to be rendered on an inconclusive and inchoate presentation of facts and hence, ends of justice would be defeated.

9. Hence the above point is answered in the Affirmative. Accordingly, I proceed to pass the following.

O R D E R

The application dated 21.03.2024 filed by the complainant is hereby allowed on cost of Rs. 100/-.

Addl. Sr. CJ & JMFC.,
Sagar.