

**Orders on interim application filed under section 311
of the Cr.P.C**

1. The complainant has filed this application seeking permission from the court to produce promisory note and account extract that were not produced at the time of filing a complaint. The complainant has stated that due to an inadvertent mistake he could not produced the document

before the court; the documents sought to be produced before the court were obtained at the time of advancing loan to the accused as a security, and the documents are relevant documents to prove his case beyond all reasonable doubt. If the application is allowed by allowing the production of document, there will be no prejudice to the accused, as he has every right to testify about the genuineness of the document during the trial of the case. If the application is not allowed, then the accused may get the chance of fleeing from justice even though there is sufficient evidence against him; hence, the complainant has prayed to allow the interim application.

2. The learned counsel for the accused has filed an objection to the interim application, contending that the application is not maintainable under the law and facts of the case; further contending that the complainant has not made out valid and justifiable grounds to consider the application; further contending that the allegation made in the application that the documents were collected at the time of advancing loan and the same could not be produced at the time of filing the complaint is a false story created by the complainant. Further contending that there is no material before the court to show that those documents were obtained at the time of advancing loan to the accused, the complainant has not narrated facts as to in whose possession the documents were at the time of filing the complaint. Further, the documents that sought to be produced before the court are the created documents, and production of document before the court is only for filing of the Lacuna, and the application is filed only to drag on the proceedings; Therefore, on the

aforesaid grounds, counsel for the accused has prayed for rejection of the application.

3. On perusal of complaint and other material documents placed before this court, the following points that arise for my consideration.

POINTS

1. Whether the complainant has the right to produce documents at any stage of the trial ?

2. Can the complainant produce documents not produced along with the complaint?

3. Which order?

4. I have heard arguments from learned counsel for the complainant and learned counsel for the accused.

5. Upon hearing arguments and on perusal of the material records placed before this court, my answers to the above mentioned points are as under.

Point No.1 In the affirmative

Point No.2 In the affirmative

Point No.3 As per the final order for the following

REASONS

6. Points No.1 and 2 : These points are interconnected with each other, hence to avoid repetition of facts, both points are taken together for common discussion.

7. The complainant has moved an application to seek permission from the court to produce the documents that were not produced along with the complaint. The accused has seriously contested the application on the grounds that

the very possession of the documents are doubtful and the complainant has not made out valid grounds about the non-production of documents along with the complaint, and also contending that the documents sought to be produced before the court are the created documents. The accused has a right to oppose the application filed by the complainant; that right cannot be taken away by the court. The genuineness of the document can be testified on two occasions: one during the course of trial and another at the time of the passing of a judgment. The initiation of the prosecution against the accused was on the basis of the complaint. If the court finds it difficult to proceed against the accused, then the court may acquit the accused for alleged offences, but if the materials available on record are sufficient to proceed, then the court may call upon the complainant to prove the guilt of the accused beyond all reasonable doubt. If the complainant could not produce material documents at the time of submitting the complaint, the same can be produced at a later stage of the proceedings, and the accused has a right to testify about their genuineness during the trial of the case, or the court can also testify about the genuineness of the documents at the time of passing a judgment. If the documents produced at a later stage of the proceedings are not grounds to reject the prayer of the complainant to produce documents.

8. The complainant has a right to produce the documents at any stage of the case, subject to the permission of the court; hence, the objection raised by the accused is not sustainable. Therefore, I hold that the application filed by the complainant for the production of

documents deserves to be allowed, accordingly I answer **point no.1 and 2 are in the affirmative.**

9. Point No.3: For the above said reasons and discussions, I proceed to pass the following:

ORDERS

The interim application filed by the complainant under Section 311 of the Cr.P.C. is hereby allowed on payment of cost of Rs.200/-.

Consequently, permission is granted to the complainant to produce the document mentioned in the list.

For further chief of PW.1

Call on 28-02-2024.

(Shrishail.B.Bagadi)

Prl. Civil Judge and JMFC, Sagar.