



**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TUMAKURU.**

Present:

Sri B. Jayantha Kumar, B.A.LAW., LL.M.,
Prl. District & Sessions Judge,
Tumakuru.

Dated this the 15th day of June, 2026.

Sessions Case No.125/2023

COMPLAINANT : State by Hebburu Police.
(By learned Public Prosecutor,
Tumakuru)

-VERSUS-

ACCUSED : Annappaswamy @ Annappa @
Aruna.
(By Sri.R.Balakrishna,
Chief defence counsel)

ORDERS ON APPLICATION FILED U/S.311 of Cr.P.C.

This application is filed by the learned Public Prosecutor U/Sec.311 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) to recall PW.15 Dr.Gunnaiah and PW.34 Dr. Bharti Khodnapur to lead further evidence.



2. In the said application, learned Public Prosecutor contended that informant Shivaswamy had lodged first information against the accused alleging the offences punishable U/Ss.302 and 307 of IPC and after completion of investigation, Sri.Channegowda. R.G., Police Inspector, Hebburu Police Station has filed charge sheet and during the course of trial, CW.22 Dr.Gunnaiah examined as PW.15 and at that time, record pertaining to handing over of the clothes of accused was not available, therefore the said record and clothes were not marked and therefore marking of record and the clothes are necessary. Dr. Bharati Khodnapur, Senior Scientific Officer, F.S.L., examined as PW.34 and during the course of evidence, she stated that she had received 21 articles for examination, however the said articles were not marked through her, the non-marking of records and articles were due to mistake and not with malafide intention and hence



prayed for recalling P.W.15 and P.W.34 by allowing this application.

3. The learned Chief Defence Counsel filed objection and contended that the application is not maintainable, PW.15 has not stated with regard to examination of the accused and collection of clothes, P.W.34 has specifically identified the articles examined by her and therefore, the question of further examination of P.Ws.15 and 34 do not arise, the accused was arrested on 21.03.2023 and his voluntary statement was recorded and on 22.03.2023, the accused was produced before the Medical Officer for the examination and collection of clothes and he was examined and report Ex.P.43 was issued by the concern Medical Officer and clothes were also produced before the investigating Officer on the same day. Hence, the question of collection of clothes on 24.03.2023 by P.W.15 does not arise and prayed for rejection of the application.



4. Heard learned Public Prosecutor and learned Chief Defence Counsel.

5. The following points arise for my determination:

1. *Whether the prosecution is entitled to recall P.W.15 and P.W.34 for the purpose of further examination U/S.311 of Cr.P.C.?*

2. *What order?*

6. My Findings on the above points are as follows:-

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

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

REASONS

7. **Point No.1**:- In this case, the first informant Shivaswamy @ Swamy lodged first information alleging the offences punishable U/Ss.302 and 307 of IPC against the accused and after the completion of investigation, the Investigating Officer has filed charge sheet against accused and during the course of trial, the prosecution has examined in all 35 witnesses as



P.Ws.1 to 35 and got marked Exs.P.1 to 71 and M.Os.1 to 19.

8. The learned Public Prosecutor vehemently argued that though Dr.Gunnaiah was examined as P.W.15, no letter pertaining to handing over of clothes of the accused was available in the Court record, now the I.O. has produced the said record before the court and the said letter is to be marked through P.W.15. She further argued that P.W.34 Dr.Bharati Khodnapur has examined 21 articles, however the clothes of accused was not marked through Dr.Bharati khodnapur in her evidence, hence their evidence are necessary and they may be recalled for the purpose of further examination.

9. The learned Chief Defence Counsel argued that this court has already examined the witnesses and P.W.15 has not stated with regard to examining of accused and collection of clothes and PW.34 has



specifically identified the articles before the court and accused was arrested on 21.03.2023 and he was produced before the Medical Officer on 22.03.2023 and question of collection of clothes on 24.03.2023 does not arise and prayed for rejection of the application.

10. I have gone through the case records. It is the duty of the court to give ample opportunity to both prosecution and defence to prove the case of the prosecution and put forward the defence by the accused. It is true that PWs.15 and 34 were already examined in Chief and their cross-examinations were also done, however to identify the clothes and to mark the clothes of the accused, the prosecution intend to recall P.Ws.15 and 34. Recalling of PWs.15 and 34 do not prejudice the accused. The cross-examination of the witnesses can be made by Chief Defence Counsel. If the application is rejected, the prosecution will be put to hardship. Therefore it is just and proper to allow the



application to recall PWs.15 and 34 for further examination. In these circumstances, I answer point No.1 in the '**Affirmative**'.

11. **Point No.2:-** In view of my findings on point No.1, I proceed to pass the following:

O R D E R

The application filed by the learned Public Prosecutor, U/Sec.311 of Cr.P.C. is hereby allowed.

PWs.15 Dr. Gunnaiah and P.W.34 Dr. Bharati Khodnapur are hereby recalled.

Issue summons to PW.15 and PW.34.

*(Dictated to the Stenographer, transcribed and computerized by her. Script corrected, signed and then pronounced by me in the open Court on the **15th day of June, 2026**).*

(B. Jayantha Kumar)
Prl. District and Sessions Judge
Tumakuru.