

ORDERS

The learned counsel for accused has filed application under section 311 of Criminal Procedure Code praying to permit the accused to cross examine P.w.2.

It is stated in the application that the accused due to ill-health could not appear before the Court and she has filed application under section 205 of Cr.PC. Thereafter P.w.2 was examined and posted the matter for cross examination. Whereas the accused could not contact her counsel and give instructions to cross examine P.w.2. Hence the cross examination of P.w.2 was taken as nil. As there was no any transactions between the complainant and accused, it is very much necessary to cross examine P.w.2 with respect to the said aspects. Now the accused has given instructions over the telephonic

conversation and it is very much necessary to cross examine P.w.2. If the application is not allowed, the accused would put to irreparable loss and injury. On the other hand, no harm would cause to the complainant. Hence prayed to allow the application.

The complainant has filed the objections and contended that, the accused is hale and healthy. The accused has not filed any medical reports before the Court. Since 04.07.2019 the matter was adjourned for cross examination of P.w.1 on 02.03.2022, the complainant was partly cross examined. That on 27.09.2022 the accused cross examined P.w.2 in part and thereafter sought time for further cross examination. Whereas inspite of sufficient opportunity P.w.2 was not cross examined. Hence cross examination of P.w.2 was taken as nil. Now the accused has filed this application only with intention to

drag the proceedings. Accordingly prayed to dismiss the application.

Heard arguments. Perused the records. It appears from the records that since 21.11.2019 the matter was adjourned for cross examination of P.w.2. The accused has taken sufficient opportunity to cross examine P.w.2. That on 02.03.2022 p.w.2 was cross examined in part and posted the matter for further cross examination. Thereafter on 07.02.2023 further cross examination was taken as nil. Now on 27.07.2023 the accused has come up before this Court with the present application.

It can be seen that the accused has taken sufficient opportunity to cross examine P.w.2. In spite of the same she has not cross examined P.w.2. However now the learned counsel for the accused has come up before the court and submitted that

some of the important aspects could not be cross examined.

However in order to determine the real crux of the matter and in the interest of justice, this court is of the opinion that if application is not allowed, great prejudice will be caused to the accused. Hence, in the interest of justice and equity, it is just and necessary to allow the application and hence, I pass the following:

ORDER

Application filed by the accused under section 311 of Criminal Procedure Code is hereby allowed on costs of Rs.1,000/- payable to PW.2.

For further cross examination of P.w.2 finally by 26.12.2023

Prl. Civil Judge And JMFC,
Kunigal.