

KAUK220004372022



**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC
ANKOLA , AT ANKOLA, UTTARA KANNADA**

Dated this the 4th day of July, 2024

Presided Over by:

Sri. MANOHARA M. LL.M.,
Sr. Civil Judge and JMFC, Ankola

CRIMINAL CASE No.131/2022

COMPLAINANT: Mohan Nayaran Nayak
of Kenkani, Shivapur, Ankola.

V/s

ACCUSED: Shridhar Narayan Harikant
of Kimani, Kumta.

ORDER

The counsel for the complainant filed applications under Section 254 of Cr.P.C. and under Section 91 of Cr.P.C.

2. In the applications, it is stated that earlier complainant filed application to summon the managing

partner of the Forus Foods Company to produce the original partnership agreement and account register and other documents. But, the said witness never turned up. In the objections of the accused to the said application it is stated that the said Company is closed. Hence, the complainant could not trace out the whereabouts of said witness in whose custody the original documents were there. The zerox copies of the said documents are produced. Due to oversight complainant failed to produce the documents mentioned in the list. Hence, these applications are filed.

3. The learned counsel for accused filed objection stating that alleged documents are created documents and they are not the original documents which cannot be marked in evidence. If the said documents were in existence, the said documents should have been mentioned in the application dated 16.1.2023. There is no mentioning of the same in the said application. Hence, it is prayed to dismiss the applications.

4. Having heard both side and having perused applications, objection and other materials following points arise for consideration.

1. Whether the complainant made out grounds to permit to

produce the documents and to recall PW1 as prayed for?

2. What order?

5. My findings on the above points are:-

Point No.1:- In the **affirmative**

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

REASONS

6. **POINT NO.1:-** Admittedly, the case was set down for cross-examination of P.Ws.2 and 3. At that stage, the complainant produced some documents with the above applications. The contention of the accused is that said documents are created documents. If the said documents are material documents and they are not permitted to produce, certainly the complainant is put to injustice. If the said documents are permitted to produce and permitted to exhibit in the evidence, the accused certainly has got an opportunity to cross-examine on the said documents. Thereby, he would not put to injustice. Hence, I answer **point No.1 in the affirmative.**

7. **POINT NO.2:-** In the result, I proceed to pass the following:-

ORDER

The applications filed by complainant under Section 254 and 91 of Cr.P.C are hereby allowed.

(Dictated to stenographer, transcribed by her, revised by me and then pronounced in open court on this the **4th day of July, 2024**)

Sd/-
(MANOHARA M.)
Sr.Civil Judge & JMFC., Ankola