

ORDERS ON APPLICATION UNDER S. 311 OF
Cr P C

Accused no 3 filed application under S 311 of Cr P C seeking for recall of Pw-3(Cw-1) for the purpose of cross examination. In the application, it is stated that Pw-3 could not be examined on behalf of accused no 3 pertaining to material aspects involved in the case and accused no 3 needs to cross examine Pw-3 in order to establish his defence. On the said grounds, accused no 3 sought for allowing the application.

Ld APP filed objection to the application wherein it is contended that the application filed by accused no 3 is not tenable. It is contended that Pw-3 is present before the court for the purpose of cross examination and accused no 3 failed to cross examine the witness. The grounds urged in the application are not tenable. The application is filed without any valid grounds and liable to be dismissed. On the said grounds, prosecution sought for rejection of the application.

Heard counsel for accused no 3 and Ld APP. Perused the materials on record.

In the application, it is stated that Pw-3 needs to be cross examined based on material aspects involved in the case. On the other hand, prosecution contended that the accused not made out grounds for recall of application as the accused failed to cross examine the witness when he is present. Accused no 3 contended that Pw-3 needs to be cross examined on material aspects and he needs to be accorded opportunity to cross examine the witness. Accused no 3 need to be accorded with opportunity to cross examine Pw-3 in order to put forth his defence and to elicit the truth. In order elicit the truth, accused no 3 needs to be accorded with opportunity to cross examine Pw-3. It will enable the court ascertain the truth and adjudicate the matter effectively. The accused no 3 will be able to put forth his defence effectively only if he is permitted to cross examine Pw-3. The accused no 3 can establish his defence through cross examination of witnesses and his right to cross examine cannot be curtailed. The grounds urged in the application appear reasonable and satisfactory. The grounds urged by the prosecution in the objection do not sustain for consideration. The truth of the matter needs to be elicited for which accused no 3 needs to be accorded with opportunity to cross examine Pw-3. The reasons assigned by accused no 3 in the application, appear reasonable and satisfactory. The accused no 3 deserves to be provided with the opportunity to cross examine Pw-3 which might assist in establishing his defence. The

application filed by accused no 3 deserves to be allowed. Thus, this court deems it appropriate to pass the following

ORDER

The application filed by accused no 3 under S 311 of Cr P C is hereby allowed and Pw-3 is recalled for the purpose of cross examination.

Accused no 3 is directed to pay cost of Rs 500/- to Pw-3 after completion of examination.

Sd/-

PRL JMFC, KUMTA

Pw-1 cross examined on behalf of
accused no 1 to 7.

Issue summons to Cw-2 to Cw-4

Call on 22.09.2021

C/c JMFC, Kumta