

KAUK720001652023



**In the Court of the Senior Civil Judge & Principal JMFC,
Kumta, At: Kumta, Uttara Kannada**

Dated this the 7th day of February, 2026.

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

C.C.No.132/2023

Complainant:

St. Milagrees Credit Souhardha
Co-operative Limited, Karawar,
Branch: Kumta, Represented by
Branch Manager
Sri. Rohit Suresh Mogera,
Aged about 28 years,
R/o: Kumta, Kumta Taluk.

(By Sri/Smt.. P.G.H. - Advocate)

V/s

Accused:

Shantabayi Shridhar Bhat,
Aged about 52 years,
Occ: Clark, DIET Training College,
Kumta.
R/o. Koojalli, Koojalli Post,
Kumta Taluk.

(By Sri/Smt. V.S.H. - Advocate)

ORDER

Present application filed by the accused Under section 311 of Cr.P.C to recall PW.1 for the purpose of to lead defence evidence.

2. In the application it is stated that when the matter was fixed for cross examination on that day the accused was absent due to her ill health. The absence of accused was not intentional one. For that reason this Court taken defense evidence as nil. But to bring truth before the court it is necessary to lead defence evidence, hence if the application is allowed no hardship will be caused to the complainant, on the other hand if the application is not allowed hardship caused to the accused, hence prays to allow the application. Hence, prayed to allow the application.

3. The said application is opposed by complainant by filing written objection contending that the said application is not maintainable under law and facts of the case and the contents of said application is not true. After cross examination of PW.1 the matter was posted for defence

evidence but the accused not lead her defence evidence. Hence this court taken defence evidence as nit and posted the case for argument. Accused not produced any medical documents in support of her application, hence there is no genuine reason to recall the stage for defence evidence. So in order to harass the complainant bank the accused has filed this false application, hence prays to reject the said application with cost.

4. Heard both learned counsel for complainant and accused.

5. Upon hearing arguments and on perusal of materials placed on records, following points arises for consideration.

1. Whether the accused has made out grounds for allowing the application?
 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**: Admittedly the complainant bank filed this case against the accused for the offence punishable U/s. 138 of N.I. Act. Now the present case is posted for argument by accused. At this stage the accused filed this application to permit her to lead defense evidence.

8. The accused has filed an application Under Section 311 of Criminal Procedure Code, 1973 seeking recall the stage from argument and permit the accused to lead defence evidence, it is well settle legal principle that discretion Under Section 311 of Criminal Procedure Code, 1973 is to be exercised to do complete justice. At the same time a duty is also casted on the court to balance the interest of both sides. As already noticed accused has invoked the provisions of Section 311 of Criminal Procedure Code, 1973. Section 311 of Cr.P.C empower the court to recall of witness. Hence, if the opportunity is given to the accused to lead her evidence no hardship will be caused to the complainant, on the other other hand if the application is not allowed hardship caused to

the accused. Accordingly, point No.1 answered in the Affirmative.

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

ORDER

Application filed by the accused
Under Section 311 of Cr.P.C. is hereby
allowed on cost of Rs.500/-.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 7th day of February, 2026)

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.