

Learned counsel for accused filed present application under section 311 of Cr.P.C to recall PW.1 for the purpose of further cross of PW.1.

Submits that, in the present case he has already cross examined PW.1 in part, but earlier date of hearing the he was not able to cross examine PW.1 and hence this court further cross of PW.1 taken as nil. But to the accused to prove he is innocent hence it is necessary to cross examine in further, hence if the application is not allowed hardship caused to the accused, hence prays to allow the application.

Application apposed by complainant by filing objections, contending that the accused cross examined PW.1 several times, on 29.11.2024 when the case was posted for cross of PW.1 the accused and his counsel were not present hence this court cross of PW.1 taken as nil, hence now accused cannot not recall PW.1 for cross examination, PW.1

already cross examined by the counsel for accused, hence again permitting the accused to further cross of PW.1 is nothing but it is waste of court time, the application filed by accused not liable to be allowed, hence prays to reject the application with cost of Rs.5,000/-.

Heard both respective counsels.

Counsel for accused submits that on earlier date of hearing he could not able to cross examine PW.1 in further, and this court has taken further cross of PW.1 as nil, hence further cross examination of PW.1 is very much necessary to prove the defence of the accused. Perused order sheet, the accused has taken sufficient time to cross examine the complainant, but if the application is not allowed hardship caused to the accused. Hence I proceed to pass the following,

ORDER

Application filed by the accused under section 311 of Cr.P.C is hereby allowed with cost of Rs.300/- PW.1 recalled, accused cross examine PW.1 on next date of hearing without seeking any adjournment.

Senior Civil Judge & JMFC, Kumta