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**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL. JMFC.,  
KUMTA, AT: KUMTA, UTTARA KANNADA**

**Dated this the 10<sup>th</sup> day of October, 2025**

**PRESENT**

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

**C.C.No.194/2022**

**Complainant:** Godavari Souharda Credit Sahakari Ltd.,  
Branch-Gokarna, Kumta Taluk,  
represented by its Branch Manager  
Sri. Raveesh Nagesh Naik,  
R/o: Vannalli, Kumta Taluk (U.K.).

(By Sri. R.G.N. Advocate)

**V/s**

**Accused:** Sri. Bommayya Suresh Revanakar,  
Age: Major,  
R/o: Hiregutti, Post: Hiregutti,  
Kumta Taluk (U.K.)

(By Sri. P.S.N./P.H.K. - Advocate)

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**ORDER**

Present application filed by the accused under Section 311 of Cr.P.C to recall PW1 for the purpose of further cross examination.

2. In the application it is stated that the counsel for accused was required to make a further cross-examination of P.W. 1. When the matter was fixed for cross examination on that day the accused was absent and it was inconvenient for the accused to give information to his counsel. The absence of accused was not intentional one. For that reason this Court taken cross of PW.1 taken as nil. But to bring truth before the court it is necessary to cross-examine the complainant, 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.

3. The application is opposed by complainant by filing written objection contending that this court already given sufficient opportunity to accused to cross examined PW.1, but was not cross examined. From 01-12-2022 to 24-07-2025

approximately 40 adjournments, the opportunity given to accused to cross examine PW.1, but he has not cross-examined. After that, on 28-08-2025, an application under Section 311 of the Cr.P.C. was filed and the accused sought the opportunity for the cross of PW1 and same was allowed and posted the case for cross examination of complainant on 04-09-2025, but the learned counsel for the accused did not utilize it and now the accused file present application only to drag the matter. The learned counsel for the accused did not give any reason in his application and filed this application on false grounds and the said case was adjourned on one or other grounds, hence there is no genuine reason to recall the cross-examination, 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 313 statement of accused at this stage the accused filed this application to recall PW.1 for the purpose of further cross of PW1. It is the contention of counsel for accused that, due to absent of accused, the counsel for accused not able to cross examine PW.1, non cross examining PW.1 on earlier date is not intentional one, but to bring truth before the court it is necessary to cross-examine the complainant.

8. Counsel for complainant submits that, the inspite of several opportunity the counsel for accused not cross examined PW.1 hence the application is filed only to drag the proceedings, if the application is not allowed no hardship will be caused to the accused.

9. It is well settled 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 interests of both sides. In the present case the accused intends to cross examined PW.1 in further. Perused the order sheet, complaint filed in the year 2022 but still cross examination of PW.1 not completed. Hence both parties are directed to assist the court for early disposal. Though learned counsel for complainant submits accused taken sufficient opportunity but if accused not permitted to cross examine PW.1 he cannot prove his defense. Hence if the application is allowed no hardship will be caused to the complainant. Hence the accused made out grounds to recall the PW1 for further cross examination. Accordingly, this Court answered **point No.1 in the Affirmative.**

10. **Point No.2:** In view of my findings on point No.1, this Court 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.300/-.

Further the accused is directed to further cross examine PW.1 without seeking any adjournments.

PW.1 recalled, for the purpose of further cross examination.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 10<sup>th</sup> day of October, 2025)

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