

KAUK720006072022



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

Dated this the 25th day of November 2025

PRESENT

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

C.C.No.212/2022

Complainant: Chetan Govinda Nayak,
Age: 43 years, Occ: Business,
R/o. Hithlmakki, Kumta Taluk.

(By Sri. P.S.N.- Advocate)

V/s

Accused: Abhinandan Manjunath Kharvi,
Age: 29 years, Occ: Fisheries,
R/o. Madhya Kharvivada,
Belambar Post, Ankola Taluk.

(By Sri. S.R.S. - Advocate)

COMMON ORDER

Present applications filed by the accused Under section 311 of Cr.P.C to reopen the case and also filed application under section 91 of Cr.P.C with a prayer to direct the complainant to produce documents as sought in applications.

2. In his application the accused has contended that, in this case, the complainant, while giving evidence in the court, has testified that he has capacity to give money to the accused and that he has drawn the money from the bank while paying the money to the accused and that he has shown the amount related to the loan transaction in his income tax returns and also deposed that he has accounts in several banks and has agreed to produce all those documents in the court. But so far, no documents have been produced by the complainant before the court. The complainant has not produced the documents as stated during the examination, the said documents are very much necessary to cross examine PW.1 in further. Hence if the application is not allowed hardship caused to the accused hence prays to allow the application.

3. Applications opposed by complainant by filing his written objection contending that said application is not tenable under law, in this case the cross examination of PW.1 is completed and now the case is posted for statement of accused under section 313 of Cr.p.c. the complainant never in his cross examination has deposed that he lend the amount to accused

drawn by his bank. He deposed that, though he admitted he has shown loan transaction amount in his income tax returns, but he has not shown the name of specific person. The complainant never admitted to produce his bank documents before the court. This application is filed only to drag the matter. On these grounds the complainant prays to reject the application.

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 applications?
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 now the present case is posted for statement of accused, at this stage accused filed present applications to reopen the case and call for documents from complainant.

8. It is the contention of the accused that the complainant deposed that he lend the money to the accused from withdrawing amount from his account. And the complainant also in his evidence deposed that, he shown the loan transaction amount in his income tax returns. Hence the bank account from which the complainant drawn the amount to lend the accused and income tax returns are very much necessary documents to prove their case hence accused prays to allow the application directing the complainant to produce documents.

9. In cheque bounce cases the core point to prove is whether the cheque was issued for a legally enforceable debt or liability. The complainant must initially establish that the cheque was issued and subsequently dishonored. In this case the accused raised the question with respect to lending amount by the complainant as stated by him. Hence now the burden is on the complainant to prove how he given the amount to the accused. In his cross examination PW.1 admitted that he drawn the amount from his bank account and given loan to the accused and the same is shown in his income tax returns. Hence now it is the contention of the accused that accused wants to cross

examine PW.1 on the said documents. Hence if the documents are called for it might assist the court in ascertaining the truth, Hence, if the opportunity is given to the accused to prove their case by directing the complainant to produce the document , 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 **Affirmaive**.

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

ORDER

Applications filed by the accused Under Section 311 and under section 91 of Cr.P.C. is hereby allowed.

The complainant is directed to produce the document as sought in application.

(Dictated to stenographer directly on computer, Typed by her, corrected by me and pronounced by me in the open Court on this the 25th day of November, 2025)

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