

Accused absent. EP filed. Perused. Allowed.

Counsel for the complainant has filed an application u/sec 311 of Cr.P.C. seeking to issue witness summons to the then Block Education Officer by name Sri.Y.B. Badavadagi.

In the application it is stated that, the examination of PW1 is over and at this stage the complainant intends to examine the then Block Education Officer by name Sri.Y.B. Badavadagi in relation to this case, since he has worked as BEO at Mundgod for the period 2010 to 2016 and subscribed his signatures to the attendance register which is already marked and exhibited in this case. Therefore in order to elicit the matters in controversy it is just and necessary to examine the then BEO. In case the complainant is not permitted to examine aforesaid witness he will be put to great loss. On the other hand no harm will be caused to the other side. In this regard complainant prays to allow his application.

Counsel for the accused filed objections to the I.A. contending that, for the sole reason that the then BEO had subscribed his signatures to the attendance register of the complainant's education society during his visit, he can not be summoned as a witness, that when the dispute arose between the teachers, accused and the administrative committee of the

complainant society, the then Block Education Officer by name Sri.Y.B. Badavadagi was appointed as special officer from education department to the Lotus education society for the period of 2 years. That he undertook disciplinary action against the accused on behalf of the department, conducted enquiry and submitted report to the department. He was part of the investigation of the complaint lodged against the accused to the department on basis of the report submitted by him, education department had appointed administrator to the complainant education society. That report submitted by him played vital role in establishing the innocence of the accused. Therefore he can not be summoned to give evidence as a witness. In this regard accused urged to dismiss the application.

Heard the both sides.

I have gone through the proceedings of the case. It is alleged that accused have manipulated the attendance registers in collusion with the incharge HM by recording their attendances even on the days of their absence. Such being the case, the complainant society reported the same to the then BEO and DDPI on 05-02-2010. Further, apart perusal of the objections raised by the C/A for the instant IA, it appears that the witness sought to be summoned have some personal knowledge about the alleged incident, because he was appointed as a special officer to the

complainant education society for the period of 2 years and also conducted enquiry. When the facts stood thus, this court opines that the information/facts which are in his personal knowledge might help this court in arriving at the proper conclusion. Sec. 311 of Cr.P.C. empowers the court to summon, examine, recall or re-examine any person at the any state of trial or inquiry if their evidence appears to the court to be essential. Moreover no considerable harm will be caused to the accused since they very well get the opportunity to cross examine the witness. Accordingly this court proceeds to pass the following,

ORDER

The application filed by the counsel for the complainant under Section 311 of Cr.P.C. is hereby allowed.

Accordingly, issue witness summons to the witness named in the application if PF is paid.
R/by 31-12-2024.

-Sd-
Civil Judge and JMFC.,
Mundgod.