

KAUP300008502019



**IN THE COURT OF ADDITIONAL DISTRICT AND
SESSIONS JUDGE, UDUPI (SITTING AT
KUNDAPURA)**

DATED THIS THE 22ND DAY OF APRIL, 2025

PRESENT:

**Sri Abdul Rahim Hussain Shaikh,
B.Sc., B.Ed., LL.B.(Spl.)
Addl. District and Sessions Judge,
Udupi (sitting at Kundapura)**

S.C.No.10/2019

Applicant/ accused	Raviraj, 37 years S/o Subhash Naika, R/o Kuntumavu Mane, Salkodu, Jadkal Village, Kundapura Taluk (By Advocate Sri M.S.S.)
	AND
Complainant	State by Kundapura Rural police station (By Learned Public Prosecutor)

**ORDER ON APPLICATION FILED U/S. 311 OF
CR.P.C.**

The Advocate for the applicant/accused has filed the application under Section 311 of Cr.P.C. to recall the witness PW13 and PW23 and permit the accused to cross-examine them.

2. In the application, it is contended that the Advocate appearing for the accused could not cross-examine the witness PW13 and PW23 with regard to MO1 to MO3 on the last occasion due to unavoidable circumstances and some important questions have been left out. It is further contended that the cross-examination of aforesaid 2 witnesses with regard to MO1 to MO3 are absolutely necessary and essential to establish the case of the defence and to disprove the prosecution case.

3. The Learned Public Prosecutor has filed objections contending that PW13 and PW23 have

been completely cross-examined by the accused counsel. Further it is contended that there is no specific contention in the application for what reason the witness has to be recalled for cross-examination. It is contended that without any proper reason and grounds the application filed. Hence prays to dismiss the application.

4. Heard the arguments on both sides. Perused the entire records. The following points are arise for consideration of this court:

- 1. Whether the applicant/accused has made out sufficient ground to allow the application?*
- 2. What order?*

5. After hearing the argument of both sides and by considering the documents on record, this court has given its findings on the above points are as under:

Point No.1:	In the Negative
Point No.2:	As per final order

for the following:-

REASONS

6. **Point No.1:** In the instant case, PW13 the victim's son has already been cross-examined at length by accused counsel and PW23 is also subjected to cross-examination. Further it is found that there is no specific ground and contention in the application as to for what reason the said witness has to be recalled. It is very pertinent to note that when the case is posted for defence argument, with an intention to drag the proceedings of the case, the present application filed to fill the lacuna of the defence. It is equally important to note that there is no change of circumstances and the counsel is the same counsel who has cross-examined the witnesses earlier. Considering all these aspects, it is found that if the application is allowed , it will lead to fulfillment of lacuna of the defence and the witness will be subjected to unnecessary cross-examination when

they were fully and satisfactory cross-examined at the earliest date of appearance.

7. From the above reasons and discussions the accused /applicant has failed to make out grounds to allow the application. Hence, I answer point No.1 in the **negative**.

8. **Point No.2**: In view of answer of this Court on point No.1, this court pass the following:-

ORDER

The application filed by the applicant/accused under Section 311 of Cr.P.C. is hereby rejected.

(Typed to my dictation by the Stenographer directly on Computer, corrected by me and then pronounced in open Court on this the **22nd day of April , 2025**)

(Abdul Rahim Hussain Shaikh)
Addl. District and Sessions Judge,
Udupi, (sitting at Kundapura)