

IN THE COURT OF THE I ADDL., CIVIL JUDGE & JMFC
at Vijayanagara District, Hosapete.

C.C.No.439/2021

Dated on this the 08th day of December-2025.

Complainant : S. Taheer S/o S.Iqbal

V/s

Accused: Moahammed Ayaz Khan S/o Late Mahboob
Ali Khan

I.A.

Applicant/

Complainant: S. Taheer S/o S.Iqbal

(By Sri. M.N.K., Advocate)

V/s

Opponent/ Moahammed Ayaz Khan S/o Late Mahboob
Accused: Ali Khan

(By Sri. B.Z., advocate)

1.	Provision under which the application is filed	Under Section 91 of Code of Criminal Procedure, 1973.
2.	Relief sought for	Production of documents
3.	The date on which the application is filed	04.12.2024
4.	Number of the application	I.A.
5.	The date on which the objections are filed by different opponents	29.01.2025
6.	The date on which the orders were passed on the application	08.12.2025

**Order on behalf of the Complainant U/Section 91 of Code
Criminal Procedure 1973**

The counsel for Complainant has filed this application U/Sec.91 of Code of Criminal Procedure, 1973 praying this Court to permit Complainant to produce original agreement of sale 04.04.2018. On the other hand counsel for Accused filed objection to this application.

2. Perused the application wherein it is submitted that the father-in-law of Accused by name Zahiruddin Khan M. had executed an agreement of sale dated 04.04.2018 in the name of Complainant but due to over sight at the time of filing this case the said agreement was not produced and that this documents is vital for establishing the case of complainant and that non production of this document at earlier point of time is not bonafide in nature and thereby prayed to allow this application.

3. On the other hand having denied all the grounds urged in this application, counsel for Accused contended that Section 91 of Code of Criminal Procedure, 1973, is meant for summoning of documents that are in possession of 3rd party or public authority and not for those that are already available with the complainant and that complainant being in possession of said document is at liberty to produce it directly before this Court as per the procedure established under law without invoking this provision. Further that this application is not maintainable in

the absence of application U/Sec.311 of Code of Criminal Procedure, 1973 which is necessary in case complainant wishes to recall or summon a witness to prove the said document and further submitted that this Court is empowered to reject this application as it amongst to abused process of law and only to cause delay in disposal of this application.

4. Further it is submitted that on 28.11.2023 the complainant has filed application under Section 311 of Code of Criminal Procedure, 1973, to recall the complainant, and for the said application, the defense counsel has filed his detailed objections, and this Hon'ble Court has rejected the application as devoid on merits on 16.07.2024. Therefore, the complainant is attempting to mislead the procedural aspect by filing the application under the guise of Section 91 of Code of Criminal Procedure, 1973 and on these grounds he prayed to dismiss this application.

5. Heard both the counsel and perused the documents placed on record.

6. The following points arise for my consideration:

1. Whether Complainant has proved that the proposed document is necessary and desirable for the purpose of adjudication of this case?

2. What Order?

7. My findings to the aforementioned points are as follows:

Point No.1- In Affirmative.

Point No.2- As per my final order to the following;

REASONS

8. Point No.1:- On careful perusal of the application and objection filed by both the parties along with the proposed document, this Court noticed that in para No.1 of complaint, complainant has referred to the existence of sale agreement dated 04.04.2018. Further on plain reading of Section 91 of Code of Criminal Procedure, 1973, it becomes clear that Court is empowered to issue summons to any person in whose possession the document which is necessary or desirable for inquiry or trial and by the meaning of any person need not always be a 3rd person because it also means and includes the parties involved in the case. Under such circumstance by keeping in mind the reference of sale agreement made by complainant in his complaint and also by keeping the alleged transaction occurred between Accused and Complainant concerning the alleged sale agreement which was entered between complainant and father-in-law of Accused, this Court is of the opinion that the said agreement is necessary for the trial in this case which will lead to complete adjudication of this case. Further with respect to the objection of accused concerning this Court having rejected earlier application filed by complainant under Sec.311 of Code of Criminal Procedure, 1973 will have no detrimental effect on this application because the earlier application was filed by complainant for recall of

PW.1 for the purpose of his re-examination. Hence, this objections not taken into consideration. Lastly the objection of counsel for Accused about failure from the part of complainant to file an application under Sec.311 of Code of Criminal Procedure, 1973 is merely a procedural lapse and on this ground this application cannot be dismissed. Hence, in the view of discussion made above this Court proceeds to answer this point in Affirmative.

9. Point No.2:- By keeping the discussion made above, this Court proceeds to pass the following:

ORDER

The application filed by Complainant U/Sec. 91 of Code of Criminal Procedure, 1973, is hereby allowed.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in the open Court, this 08th day of December, 2025).

**I Addl. Civil Judge & JMFC.,
Vijayanagara District, Hosapete.**