

MHAH170036892016



**ORDER BELOW EXH. 31 IN S.C.C. No.2738/2016**

Today the matter is posted for evidence of the prosecution and prosecution examined Samir Beg as P.W.No.3. After examination of P.W. No. 3 the prosecution filed an application u/s 311 of Cr.P.C.

02. Ld. A.P.P submitted that I.O. had not recorded statement u/s 161 of Cr.P.C. of victim and injured witness Ahmad Chaugule, who is star witness in the present case. It is necessary to examine injured witness as prosecution witness. Hence, he prayed to issue summons to Ahmad Chaugule.

03. Say called from the accused. Ld. Advocate Shri. P. D. Bendre submitted that the present application is not legal. Hence prayed for reject the application.

04. Heard both the sides at length. Perused the record of the case, application and say filed by the accused.

05. After perusal of record it shows that M.L.C. of injured Ahmed Chaugule is on record, but I.O. has not recorded the statement of injured person in the present case. While dealing with this application it is necessary to see the provision of Section 311 of Cr. P.C. it runs as follows-

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call or re-examine, any person already examined; and the Court shall summon and examine or recall or re-examine any such person if his evidence appears to it to be essential to the just decision of

case.

06. As per provision of Section 311 of Cr.P.C. fair opportunity is given to the prosecution to examine injured Ahmad Chaugule as a witness of the prosecution. Hence, I proceed to pass following order-

**ORDER**

1. Application Exh. 31 is allowed.
2. Permission given to the prosecution to examine the injured Ahmad Chaugule as a prosecution witness.
3. Issue summons to Ahmad Chaugule before 26.06.2019.

Date :- 19.06.2019.

**(V.A. Lavand-Kokate)  
Judicial Magistrate First Class,  
Rahata (Court No.4)**